United Nations

Report of the Committee on the Elimination of Racial Discrimination

Sixty-second session (3-21 March 2003)
Sixty-third session (4-22 August 2003)

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CONTENTS

Chapter			*Paragraphs*	*Page*
Letter of transmittal				8
I.	ORGANIZATIONAL AND RELATED MATTERS		1 - 16	10
	A.	States parties to the International Convention on the Elimination of All Forms of Racial Discrimination	1 - 2	10
	B.	Sessions and agendas	3 - 4	10
	C.	Membership and attendance	5 - 7	10
	D.	Officers of the Committee	8	11
	E.	Cooperation with the International Labour Organization, the Office of the United Nations High Commissioner for Refugees and the United Nations Educational, Scientific and Cultural Organization	9 - 12	12
	F.	Other matters	13 - 15	12
	G.	Adoption of the report	16	13
II.	PREVENTION OF RACIAL DISCRIMINATION INCLUDING EARLY WARNING AND URGENT PROCEDURES		17 - 18	14
	A.	Decisions adopted by the Committee at its sixty-second session		14
		Decision 1 (62) on the situation of displaced persons in Côte d'Ivoire		14
		Decision 2 (62) on Guyana		14
		Decision 3 (62) on Suriname		15
	B.	Decisions adopted by the Committee at its sixty-third session		16
		Decision 1 (63) on the situation in the Lao People's Democratic Republic		16
		Decision 2 (63) on Israel		18

CONTENTS (*continued*)

Chapter *Paragraphs* *Page*

III. CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION .... 19 - 568 19

Côte d'Ivoire .... 19 - 46 19

Ecuador .... 47 - 69 22

Fiji .... 70 - 102 25

Ghana .... 103 - 128 30

Morocco .... 129 - 150 33

Poland .... 151 - 168 35

Russian Federation .... 169 - 200 38

Saudi Arabia .... 201 - 227 41

Slovenia .... 228 - 245 45

Tunisia .... 246 - 262 47

Uganda .... 263 - 286 50

Papua New Guinea .... 287 - 294 52

Albania .... 295 - 326 53

Bolivia .... 327 - 350 58

Cape Verde .... 351 - 372 62

Czech Republic .... 373 - 393 65

Finland .... 394 - 414 69

Islamic Republic of Iran .... 415 - 436 72

Latvia .... 437 - 462 75

Norway .... 463 - 485 79

Republic of Korea .... 486 - 501 83

Saint Vincent and the Grenadines .... 502 - 519 85

CONTENTS (*continued*)

Chapter *Paragraphs* *Page*

III. (*cont'd*)

United Kingdom of Great Britain and Northern Ireland .... 520 - 550 88

Malawi .... 551 - 568 93

IV. CONSIDERATION OF COMMUNICATIONS UNDER ARTICLE 14 OF THE CONVENTION .... 569 - 578 97

V. THEMATIC DISCUSSIONS 579 100

VI. CONSIDERATION OF COPIES OF THE PETITIONS, COPIES OF REPORTS AND OTHER INFORMATION RELATING TO TRUST AND NON-SELF-GOVERNING TERRITORIES TO WHICH GENERAL ASSEMBLY RESOLUTION 1514 (XV) APPLIES, IN CONFORMITY WITH ARTICLE 15 OF THE CONVENTION .... 580 - 584 101

VII. ACTION TAKEN BY THE GENERAL ASSEMBLY AT ITS FIFTY-SEVENTH SESSION .... 585 - 586 102

VIII. SUBMISSION OF REPORTS BY STATES PARTIES UNDER ARTICLE 9, PARAGRAPH 1 OF THE CONVENTION .... 587 - 593 103

A. Reports overdue by at least 10 years 587 103

B. Reports overdue by at least five years 588 104

C. Action taken by the Committee to ensure submission of reports by States parties .... 589 - 593 105

IX. THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION; FOLLOW-UP TO THE WORLD CONFERENCE AGAINST RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE .... 594 - 595 107

X. OVERVIEW OF THE METHODS OF WORK OF THE COMMITTEE .... 596 - 598 108

XI. DECISIONS AND STATEMENTS 599 109

A. Statement of 10 March 2003 on the current international situation 109

B. Decision 3 (63) on the amendment to article 8, paragraph 6 109

CONTENTS (*continued*)

Annexes

Page

I. STATUS OF THE CONVENTION 111

A. States parties to the International Convention on the Elimination of All Forms of Racial Discrimination (169) as at 22 August 2003 111

B. States parties that have made the declaration under article 14, paragraph 1, of the Convention (43) as at 22 August 2003 111

C. States parties that have accepted the amendments to the Convention adopted at the Fourteenth Meeting of States Parties (37) as at 22 August 2003 112

II. AGENDAS OF THE SIXTY-SECOND AND SIXTY-THIRD SESSIONS 113

A. Sixty-second session (3-21 March 2003) 113

B. Sixty-third session (4-22 August 2003) 113

III. DECISIONS AND OPINIONS OF THE COMMITTEE UNDER ARTICLE 14 OF THE CONVENTION 115

A. Sixty-second session 115

Decision concerning communication No. 22/2002 (*Poem and Fasm v. Denmark*) 115

Decision concerning communication No. 24/2002 (*Regerat et al. v. France*) 127

Decision concerning communication No. 25/2002 (*Sadic v. Denmark*) 132

Opinion concerning communication No. 26/2002 (*Hagan v. Australia*) 139

B. Sixty-third session 149

Opinion concerning communication No. 27/2002 (*Kamal Quereshi v. Denmark*) 149

Decision concerning communication No. 28/2003 (*Documentary and Advisory Centre on Racial Discrimination v. Denmark*) 158

CONTENTS (*continued*)

Annexes

Page

IV. OVERVIEW OF THE METHODS OF WORK OF THE COMMITTEE 165

V. DOCUMENTS RECEIVED BY THE COMMITTEE AT ITS SIXTY-SECOND AND SIXTY-THIRD SESSIONS IN CONFORMITY WITH ARTICLE 15 OF THE CONVENTION 170

VI. COUNTRY RAPPORTEURS FOR REPORTS OF STATES PARTIES CONSIDERED BY THE COMMITTEE AT ITS SIXTY-SECOND AND SIXTY-THIRD SESSIONS 171

VII. COMMENTS OF STATES PARTIES ON THE DECISIONS AND CONCLUDING OBSERVATIONS ADOPTED BY THE COMMITTEE AND REPLIES OF THE COMMITTEE 174

VIII. LIST OF DOCUMENTS ISSUED FOR THE SIXTY-SECOND AND SIXTY-THIRD SESSIONS OF THE COMMITTEE 186

Letter of transmittal

22 August 2003

Sir,

It is with pleasure that I transmit the annual report of the Committee on the Elimination of Racial Discrimination.

The International Convention on the Elimination of All Forms of Racial Discrimination, which has now been ratified by 169 States, constitutes the normative basis upon which international efforts to eliminate racial discrimination should be built.

During the past year the Committee continued with a significant workload in terms of the examination of States parties' reports (discussed in chapter III) in addition to other related activities. The Committee also examined the situation of several States parties under its early warning and urgent procedures (see chapter II). In order to continue its consideration of subjects of general interest, the Committee decided at its sixty-third session that it would hold a thematic discussion on non-citizens and non-discrimination at its sixty-fourth session, to be held from 23 February to 12 March 2004.

As important as the Committee's contributions have been to date, there is obviously some room for improvement. At present, only 43 States parties (see annex I) have made the optional declaration recognizing the Committee's competence to receive communications under article 14 of the Convention and, as a consequence, the individual communications procedure is underutilized, as indeed is also the inter-State complaints procedure.

Furthermore, only 37 States parties have so far ratified the amendments to article 8 of the Convention adopted at the Fourteenth Meeting of States Parties (see annex I), despite repeated calls from the General Assembly to do so. The Committee appeals to States parties that have not yet done so to consider making the declaration under article 14 and ratifying the amendments to article 8 of the Convention.

I would also like to point out that some of my colleagues consider that if the Committee could hold one of its meetings at United Nations Headquarters, as provided in article 10, paragraph 4, of the Convention, the possibility would be available to States that do not have representation in Geneva to have a better dialogue with the Committee.

His Excellency Mr. Kofi Annan
Secretary-General of the United Nations
New York

The Committee remains committed to a continual process of reflection on and improvement of its working methods, with the aim of maximizing its effectiveness (see chapter X). In this connection, the Committee held a meeting with States parties on 19 August 2003, which led to a fruitful exchange of views on the activities of the Committee and on ways of improving its dialogue with States parties. Furthermore, the Committee devoted a number of meetings during its sixty-second and sixty-third sessions to a discussion of its working methods and adopted a working paper on this matter at the end of its sixty-third session (see annex IV).

At this time, when the United Nations bodies promoting human rights are encountering difficulties, I want to assure you, on behalf of all the members of the Committee, of our determination to continue working for the promotion of the implementation of the Convention and to support all activities that contribute to combating racism, racial discrimination and xenophobia throughout the world.

I take great personal pride in the dedication and professionalism demonstrated by the Committee members in the performance of their important work. The dynamic pluralism of the membership considerably enhances the quality and relevance of its analytical work in the great diversity of circumstances it is called upon to consider. I remain confident of the Committee's abilities to contribute significantly to the implementation of both the Convention and the follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in the years ahead.

Please accept, Sir, the assurances of my highest consideration.

(*Signed*): Ion Diaconu
Chairman
Committee on the Elimination
of Racial Discrimination

I. ORGANIZATIONAL AND RELATED MATTERS

A. States parties to the International Convention on the Elimination of All Forms of Racial Discrimination

1. As at 22 August 2003, the closing date of the sixty-third session of the Committee on the Elimination of Racial Discrimination, there were 169 States parties to the International Convention on the Elimination of All Forms of Racial Discrimination, which was adopted by the General Assembly in resolution 2106 A (XX) of 21 December 1965 and opened for signature and ratification in New York on 7 March 1966. The Convention entered into force on 4 January 1969 in accordance with the provisions of its article 19.

2. By the closing date of the sixty-third session, 43 of the 169 States parties to the Convention had made the declaration envisaged in article 14, paragraph 1, of the Convention. Article 14 of the Convention entered into force on 3 December 1982, following the deposit with the Secretary-General of the tenth declaration recognizing the competence of the Committee to receive and consider communications from individuals or groups of individuals who claim to be victims of a violation by the State party concerned of any of the rights set forth in the Convention. Lists of States parties to the Convention and of those which have made the declaration under article 14 are contained in annex I to the present report, as is a list of the 37 States parties that have accepted the amendments to the Convention adopted at the Fourteenth Meeting of States Parties, as at 22 August 2003.

B. Sessions and agendas

3. The Committee on the Elimination of Racial Discrimination held two regular sessions in 2003. The sixty-second (1553rd to 1582nd meetings) and sixty-third (1583rd to 1612th meetings) sessions were held at the United Nations Office at Geneva from 3 to 21 March 2003 and from 4 to 22 August 2003 respectively.

4. The agendas of the sixty-second and sixty-third sessions, as adopted by the Committee, are reproduced in annex II.

C. Membership and attendance

5. By a letter dated 20 May 2003, the Government of the Russian Federation informed the Office of the High Commissioner for Human Rights that Mr. Yuri Reshetov had passed away and, by a letter of 10 June 2003, it nominated Mr. Alexei Avtonomov as successor to Mr. Reshetov for the remainder of his term in accordance with article 8, paragraph 5 (b), of the Convention. In accordance with rule 13 of its rules of procedure, the Committee approved the nomination of Mr. Avtonomov at its 1583rd meeting (sixty-third session), on 4 August 2003.

6. The list of members of the Committee for 2003-2004 is as follows:

Name of member	Country of nationality	Term expires 19 January
Mr. Mahmoud ABOUL-NASR	Egypt	2006
Mr. Nourredine AMIR	Algeria	2006
Mr. Alexei S. AVTONOMOV	Russian Federation	2004
Mr. Marc BOSSUYT	Belgium	2004
Mr. Ion DIACONU	Romania	2004
Mr. Régis de GOUTTES	France	2006
Mr. Kurt HERNDL	Austria	2006
Ms. Patricia Nozipho JANUARY-BARDILL	South Africa	2004
Mr. Morten KJAERUM	Denmark	2006
Mr. Jose A. LINDGREN ALVES	Brazil	2006
Mr. Raghavan Vasudevan PILLAI	India	2004
Mr. Agha SHAHI	Pakistan	2006
Mr. Linos Alexander SICILIANOS	Greece	2006
Mr. TANG Chengyuan	China	2004
Mr. Mohamed Aly THIAM	Guinea	2004
Mr. Patrick THORNBERRY	United Kingdom of Great Britain and Northern Ireland	2006
Mr. Luis VALENCIA RODRÍGUEZ	Ecuador	2004
Mr. Mario Jorge YUTZIS	Argentina	2004

7. All members of the Committee attended the sixty-second and sixty-third sessions.

D. Officers of the Committee

8. At its 1494th meeting (sixtieth session), on 4 March 2002 the Committee elected the Chairman, Vice-Chairmen and Rapporteur as listed below in accordance with article 10, paragraph 2, of the Convention, for the terms indicated in brackets.

Chairman:	Mr. Ion Diaconu (2002-2004)
Vice-Chairmen:	Mr. Nourredine Amir (2002-2004) Mr. Raghavan Vasudevan Pillai (2002-2004) Mr. Mario Yutzis (2002-2004)
Rapporteur:	Mr. Patrick Thornberry (2002-2004)

E. Cooperation with the International Labour Organization, the Office of the United Nations High Commissioner for Refugees and the United Nations Educational, Scientific and Cultural Organization

9. In accordance with Committee decision 2 (VI) of 21 August 1972 concerning cooperation with the International Labour Organization (ILO) and the United Nations Educational, Scientific and Cultural Organization (UNESCO),[1] both organizations were invited to attend the sessions of the Committee. Consistent with the Committee's recent practice, the Office of the United Nations High Commissioner for Refugees (UNHCR) was also invited to attend.

10. Reports of the ILO Committee of Experts on the Application of Conventions and Recommendations, submitted to the International Labour Conference, were made available to the members of the Committee on the Elimination of Racial Discrimination, in accordance with arrangements for cooperation between the two committees. The Committee took note with appreciation of the reports of the Committee of Experts, in particular of those sections which dealt with the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and the Indigenous and Tribal Peoples Convention, 1989 (No. 169), as well as other information in the reports relevant to its activities.

11. Mr. Vladimir Volodine, Chief of the Human Rights and Development Section of UNESCO, addressed the Committee at its sixty-second session on 18 March 2003 (1576th meeting) and a fruitful discussion ensued on ways to enhance cooperation with the Committee. The discussion was pursued in further depth with Mr. Serguei Lazarev, Acting Director of the Human Rights Division and Chief of the Section for the Struggle against Racism and Racial Discrimination of UNESCO, during the sixty-third session of the Committee on 19 August 2003 (1606th meeting).

12 UNHCR submits comments to the members of the Committee on all States' parties whose reports are being examined when UNHCR is active in the country concerned. These comments make reference to the human rights of refugees, asylum-seekers, returnees (former refugees), stateless persons and other categories of persons of concern to UNHCR. UNHCR representatives attend the sessions of the Committee and report back on any issues of concern raised by Committee members. At the country level, although there is no systematic follow-up to the implementation of the Committee's concluding observations and recommendations in the 130 UNHCR field operations, these are regularly included in activities designed to mainstream human rights in their programmes.

F. Other matters

13. At the 1533rd meeting (sixty-second session), on 3 March 2003, the United Nations High Commissioner for Human Rights addressed the Committee. He stressed that protection at the national level must be the first concern, and welcomed the Committee's contribution to an approach oriented towards the protection of victims of racial discrimination and vulnerable groups. After emphasizing that the question of the rights of women was one of his priorities, the High Commissioner encouraged the Committee to promote and make full use of its general recommendation XXV on gender-related dimensions of racial discrimination. He also drew the Committee's attention to the Secretary-General's recent proposals on the reform of the

United Nations, as provided in his report to the General Assembly entitled "Strengthening of the United Nations: an agenda for further change", and to his letter to all the chairpersons of the treaty bodies, asking them to submit any views that they might have in order to assist him in preparing a report, with recommendations, to the Secretary-General on these proposals. Furthermore, the High Commissioner welcomed the ongoing work of the Committee on the reform of its working methods and stressed that his Office stood ready to assist the Committee in reflecting on how it might wish to consider a mechanism for follow-up to its conclusions and recommendations.

14. The Acting High Commissioner for Human Rights addressed the Committee at its 1583rd meeting (sixty-third session), on 4 August 2003. After recalling that the Committee since its forty-fifth session had included early warning measures and urgent action procedures as one of its regular and principal agenda items, the Acting High Commissioner stressed that one of the current challenges was to take preventive strategies to the national level. He emphasized that by building on national strategies and regional efforts, it would be possible to reinforce international cooperation for the prevention and elimination of racial discrimination. The Acting High Commissioner thanked the Committee for its contribution to the process of reflection on treaty body reform. A key insight that had emerged from that process was the positive and successful nature of a treaty body system that allowed for the creation of constituencies in each country to encourage and foster domestic-level implementation. The Acting High Commissioner also welcomed the meeting of the Committee with States parties and expressed the hope that this meeting, the first ever organized, would provide an occasion to explore how the work of the Committee could be enhanced in an effective and mutually beneficial manner.

15. Following the announcement that Mr. Sergio Vieira de Mello, United Nations High Commissioner for Human Rights, had been killed in Baghdad on 19 August 2003, the Committee paid tribute to the late High Commissioner and observed a minute of silence at the start of its 1607th meeting, on 20 August 2003.

G. Adoption of the report

16. At its 1612th meeting, held on 22 August 2003, the Committee adopted its annual report to the General Assembly.

Note

[1] *Official Records of the General Assembly, Twenty-seventh Session, Supplement No. 18* (A/8718), chap. IX, sect. B.

II. PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING AND URGENT PROCEDURES

17. The Committee, at its 979th meeting, on 17 March 1993, adopted a working paper to guide it in its future work concerning possible measures to prevent, as well as more effectively respond to, violations of the Convention.[1] The Committee noted in its working paper that efforts to prevent serious violations of the International Convention on the Elimination of All Forms of Racial Discrimination would include early warning measures and urgent procedures.

18. The following sections provide the text of the decisions adopted by the Committee under the early warning and urgent procedures at its sixty-second and sixty-third sessions:

A. Decisions adopted by the Committee at its sixty-second session

Decision 1 (62)

Situation of displaced persons in Côte d'Ivoire

The Committee on the Elimination of Racial Discrimination,

Concerned that there are many displaced persons in Côte d'Ivoire who are in a precarious humanitarian situation and who might, as a result of the present crisis, be subjected to acts or manifestations of discrimination,

Taking into consideration its general recommendation XXII (49) of 16 August 1996 on refugees and displaced persons,

Taking note of the request by the delegation of Côte d'Ivoire for increased assistance by the international community to be granted to displaced persons,

Urges the Secretary-General of the United Nations to invite the competent United Nations organizations, in their respective fields of competence, to adopt the appropriate humanitarian assistance measures on behalf of the displaced persons in Côte d'Ivoire, particularly measures to help the Government in its efforts to prevent or halt acts of discrimination based on race or ethnic origin.

1582nd meeting
21 March 2001

Decision 2 (62)

Guyana

1. The Committee on the Elimination of Racial Discrimination notes that Guyana has submitted a second periodic report to the Human Rights Committee and an initial report to the Committee on the Elimination of Discrimination against Women, but it regrets that Guyana, which ratified the International Convention on the Elimination of All Forms of Racial Discrimination in 1977, has not to date submitted any report to the Committee.

2. The Committee recalls that the purpose of the system whereby States parties submit reports is to establish and maintain a dialogue with the Committee on the action taken, the progress made and the difficulties encountered in complying with obligations arising out of the Convention. It also observes that the State party's failure to honour its reporting obligations under article 9 of the Convention is a serious impediment to the efficient operation of the monitoring system established under the Convention.

3. The Committee draws the attention of the State party to the Declaration and Programme of Action of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, according to which the International Convention on the Elimination of All Forms of Racial Discrimination is the principal international instrument for the elimination of racism, racial discrimination, xenophobia and related intolerance and States are urged to cooperate with the Committee in order to promote the effective implementation of the Convention.

4. The Committee recognizes the difficult economic and social conditions facing Guyana and remains deeply concerned about the extensive political and ethnic conflicts which have aggravated the situation in the country and led to serious clashes.

5. Many intergovernmental and non-governmental organizations and United Nations agencies agree that the vicious circle of political and ethnic tensions has brought Guyana to a state of political instability which has adversely affected human rights, weakened civil society, increased racial violence and poverty and exclusion among indigenous population groups, and hampered both the administration of justice and the application of human rights standards.

6. While the Committee has acceded to the State party's request to submit its initial report in March 2004, it wishes to emphasize that, in the light of the urgent character of the situation outlined above, it may decide to request and discuss information on the state of racial discrimination in Guyana under its early warning and urgent action procedure even earlier.

1582nd meeting
21 March 2003

Decision 3 (62)

Suriname

1. The Committee notes that the Republic of Suriname, which ratified the International Convention on the Elimination of All Forms of Racial Discrimination in 1985, has so far not submitted a report to the Committee.

2. Although the Committee considered the situation in Suriname in 1997 under the review procedure (without a report), the Government of that country has continued to disregard its obligations under article 9 of the Convention.

3. According to information obtained from the consideration of the situation in Suriname by the Human Rights Committee in October 2002 and from a report submitted to the Committee on the Elimination of Racial Discrimination by a group of non-governmental organizations

representing indigenous and tribal peoples (the Association of Indigenous Village Leaders in Suriname, Stichting Sanomaro Esa, the Association of Saramaka Authorities and the Forest Peoples Programme), serious violations of the rights of indigenous communities, particularly the Maroons and the Amerindians, are being committed in Suriname: in addition to discrimination against these communities in respect of employment, education, culture and participation in all sectors of society, there have been cited, in particular, the failure to recognize their rights to the land and its resources, the refusal to consult them about granting forestry and mining concessions to foreign companies and the fact that the mining companies' activities, especially the dumping of mercury, are a threat to their health and the environment.

4. In view of the fact that these problems faced by the indigenous communities call for immediate attention, and referring to its general recommendation XXIII (51) of 18 August 1997 on the rights of indigenous peoples, the Committee requests the State party to submit to it as a matter of urgency, by 30 June 2003, a report containing any information that might be useful in this regard for consideration at the Committee's sixty-third session in August 2003.

5. The Committee decides that, if no report is received by the above-mentioned date, it will consider the situation in Suriname under its review procedure at its sixty-third session in August 2003.

1568th meeting
12 March 2003

B. Decisions adopted by the Committee at its sixty-third session

Decision 1 (63)

Situation in the Lao People's Democratic Republic

The Committee notes with concern that the Lao People's Democratic Republic, which ratified the International Convention on the Elimination of All Forms of Racial Discrimination in 1974, is 18 years late in submitting its reports to the Committee.

In 1992 and 1996 the Committee considered the situation in that country under its review procedure (procedure for consideration without a report). In 2001, another examination under this procedure was scheduled but was postponed at the request of the authorities of the Lao People's Democratic Republic, who promised that a report would be submitted. Nevertheless, by August 2003 the Committee had still not received the sixth to fifteenth periodic reports of the State party, due for the years 1985 to 2003. Consequently, the Committee decided once again to consider the situation in the Lao People's Democratic Republic at its session in August 2003.

In view of the particularly disturbing information that it had received concerning the human rights situation in the Lao People's Democratic Republic, the Committee did not accede to the new request from the authorities, who promised to submit a report in 2004, to postpone this examination and decided, at its 1593rd meeting, on 11 August 2003, that it would adopt a decision under its early warning and urgent action procedure:

1. The Committee deeply regrets that the Lao People's Democratic Republic has failed to honour its obligations under article 9 of the Convention. Such a delay in the submission of periodic reports is an impediment to the in-depth examination of measures that the State party should take in order to ensure the satisfactory implementation of the Convention.

2. The Committee expresses its grave concern at the information it has received of serious and repeated human rights violations in the Lao People's Democratic Republic, in particular violations of the rights to life, physical integrity and security, and of the freedoms of expression, association and religion, and at reports of economic, social and cultural discrimination against members of the Hmong minority, which constitutes approximately 7.4 per cent of the population.

3. The Committee is extremely disturbed to learn that some members of the Hmong minority, who have taken refuge in the jungle or certain mountainous regions of the Lao People's Democratic Republic since the end of the war in 1975, have been subjected to severe brutalities. It has been reported that acts of extreme violence such as bombing of villages, use of chemical weapons and landmines and extrajudicial killings and torture are currently being committed by the armed forces in military campaigns against the inhabitants of remote villages in the provinces of Xieng Khuang, North Vientiane-Vang Vieng, Bolikhamsai, Sainyabuli, and the Saisombun Special Zone. According to some information, men, women and children belonging to the Hmong population live in terrible poverty, suffer from malnutrition and have no access whatever to medical care.

4. The Committee deplores the measures taken by the Lao authorities to prevent the reporting of any information concerning the situation of Hmong people who have taken refuge in the jungle or the mountains. It is particularly concerned by the arrest and subsequent sentencing to 15 years' imprisonment, in June 2003, of two foreign journalists and their assistants, who were investigating this matter. The Committee, while welcoming the release of the two journalists and their interpreter, remains concerned at the fate of the Hmong assistants who were tried at the same time and who are reportedly still being held in detention under harsh conditions.

5. The Committee stresses that, owing to the absence of a State delegation during its consideration of the situation in the Lao People's Democratic Republic, it was not in a position to have an exchange of views with the State party.

6. In the light of the foregoing information, the Committee:

(a) Urges the State party to halt immediately acts of violence against members of the Hmong population who have taken refuge in the jungle or certain mountainous regions of the Lao People's Democratic Republic;

(b) Urgently calls upon the State party to ensure that these persons have freedom of movement and access to adequate food and medical care;

(c) Requests the State party to take all possible measures to release as soon as possible the Hmong assistants who contributed to the report of the two foreign journalists concerning the situation of the Hmong minority, given that the journalists themselves have been released;

(d) Calls upon the Lao authorities to submit to the Committee, as a matter of urgency, a special report containing information about the matters referred to above, measures taken to prevent racial discrimination and, in any event, the periodic reports due under article 9 of the Convention.

7. The Committee urges the Secretary-General of the United Nations:

(a) To draw the attention of the competent United Nations bodies to the particularly worrisome human rights situation in the Lao People's Democratic Republic and request them to take all appropriate measures in this regard, including the dispatch of a mission to the Lao People's Democratic Republic with a view to helping the State party to fulfil its obligation to respect human rights and eliminate all forms of racial discrimination. In this connection, the Committee draws the attention of the Secretary-General to the willingness of its members to participate in such a mission;

(b) To request the United Nations organizations, funds and programmes and the specialized agencies, within their respective fields of competence, to take appropriate measures to provide humanitarian assistance, particularly with regard to food and access to medical care, to the members of the Hmong population who have taken refuge in the jungle or certain mountainous regions of the Lao People's Democratic Republic.

1609th meeting
21 August 2003

Decision 2 (63)

Israel

The Committee is concerned about Israel's Temporary Suspension Order of May 2002, enacted into law as the Nationality and Entry into Israel Law (Temporary Order) on 31 July 2003, which suspends, for a renewable one-year period, the possibility of family reunification, subject to limited and discretionary exceptions, in cases of marriage between an Israeli citizen and a person residing in the West Bank or Gaza. The Committee notes with concern that the Suspension Order of May 2002 has already adversely affected many families and marriages.

The Nationality and Entry into Israel Law (Temporary Order) of 31 July 2003 raises serious issues under the International Convention on the Elimination of All Forms of Racial Discrimination. The State party should revoke this law and reconsider its policy with a view to facilitating family unification on a non-discriminatory basis. It should provide detailed information on this issue in its next periodic report.

1599th meeting
14 August 2003

Note

[1] *Official Records of the General Assembly, Twenty-seventh Session, Supplement No. 18* (A/8718), chap. IX, sect. B.

III. CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION

CÔTE D'IVOIRE

19. The Committee considered the fifth to fourteenth periodic reports of Côte d'Ivoire, submitted as a single document (CERD/C/382/Add.2), at its 1568th and 1569th meetings (CERD/C/SR.1568 and 1569), held on 12 and 13 March 2003. At its 1582nd meeting (CERD/C/SR.1582), held on 21 March 2003, the Committee adopted the following concluding observations.

A. Introduction

20. The Committee welcomes the periodic reports submitted by the State party and the additional information provided orally by the delegation. The Committee was encouraged by the fact that the Government, despite the current crisis in the State party, was represented by a high-level delegation and provided frank and constructive replies to the questions asked and comments made.

B. Factors and difficulties impeding the implementation of the Convention

21. The Committee notes that the disturbances now taking place in Côte d'Ivoire are obstacles to the State party's stability and are factors which may impede its efforts to implement the Convention.

C. Positive aspects

22. The Committee welcomes the conclusion of the Linas-Marcoussis Agreement of 23 January 2003 and of the Accra Agreement of 8 March 2003, which enabled a government of national reconciliation to be formed, as a means of restoring confidence and overcoming the crisis.

23. The Committee welcomes the State party's commitment to prosecute any media which incite hatred or racial discrimination.

24. The Committee notes with satisfaction that Côte d'Ivoire has established a Ministry of Human Rights and plans to set up a National Human Rights Commission (under Decree No. 2000-830 of 22 November 2000) and an Ombudsman's Office (articles 115-118 of the Constitution).

25. The Committee welcomes the Government's declaration of principle on human rights contained in its information paper describing its efforts to guarantee respect for human rights in the current crisis situation. The Committee also notes that a free telephone line has been made available to enable any victim of a human rights violation to contact the Ministry of Human Rights.

26. The Committee notes with satisfaction that the State party recently ratified ILO Convention (No. 182) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

27. Taking note of the conclusions of the Forum on National Reconciliation on the elimination of economic and social disparities between the north and the south of Côte d'Ivoire, the Committee encourages the State party to continue its campaign to reduce regional disparities.

28. Taking note with satisfaction of the action taken on 4 October 2001 to raise awareness of human rights among the security forces, the Committee encourages the State party to continue and expand these efforts to cover political parties, press organs and civil society.

D. Concerns and recommendations

29. The Committee, recalling article 1, paragraph 3, of the Convention, notes with concern that the misuse for political ends of Nationality Code Act No. 61-415 of 14 December 1961, as amended by Act No. 72-852 of 21 December 1972, has given rise to discriminatory practices. The Committee also notes that the misuse for xenophobic purposes of the concept of "*ivoirité*", which does not appear in the Constitution, has been a key factor in the current crisis. The Committee recommends that the Nationality Code be implemented in conformity with the provisions of the Convention.

30. The Committee expresses its concern about information relating to the racial and xenophobic violence that ended in mass graves in various regions of the country and encourages the State party to continue its efforts to prevent a repetition of such violence and to punish the persons responsible for it.

31. The Committee notes with concern that the implementation of Rural Land Act No. 98-750 of 23 December 1998 created a sense of insecurity among foreigners of certain ethnic groups who owned land prior to its adoption. The Committee urges the State party to continue its efforts to explain this text better to the populations concerned and to ensure better protection of acquired rights.

32. The Committee notes with concern that the misinterpretation of election laws has given rise to tensions between ethnic and religious groups and recommends that these laws be reviewed in the light of the provisions of the Convention relating to the right of all citizens to take part in the country's political life.

33. In general, with regard to the provisions of the Constitution (particularly article 35) and the nationality legislation that has been called into question in the context of the crisis in Côte d'Ivoire, the Committee recommends that the State party take account of existing realities on the ground, in particular the coexistence of different ethnic groups, in order to guarantee that these provisions are more fully implemented.

34. Noting with concern that some of the national media have used propaganda to incite war and encourage hatred and xenophobia, the Committee recommends that the State party continue its efforts to take the necessary measures to put an end to this practice.

35. The Committee invites the State party to provide information on the status of the Convention in the hierarchy of legislation in Côte d'Ivoire, as well as on whether it is possible for individuals to invoke the provisions of the Convention directly before the domestic courts. It would also like to receive information on the practical implementation of the laws prohibiting racial discrimination, as well as on the number of complaints and of prosecutions for racist acts.

36. The Committee recommends that the State party continue its efforts to adopt legislation or regulations which define the respective spheres of competence of the National Human Rights Commission and the Ombudsman's Office, spell out the procedure for bringing cases before them and determine whether their decisions are binding. More specifically, the Committee invites the State party to strengthen the guarantees of independence of these bodies so that their activities will be effective and credible, particularly for the purposes of mediation. To this end, the State party should take the appropriate measures to inform the public of the remedies available to the victims of acts of discrimination or xenophobia.

37. The Committee recommends that the State party take all necessary steps to educate officials, political leaders and the public about, and make them aware of, the provisions of the Convention. Due account must be taken of general recommendation XIII, according to which law enforcement officials should receive training to ensure that, in the performance of their duties, they respect and protect the human rights of all persons without distinction as to ethnic origin or religion.

38. The Committee invites the Government, political parties, civil society and the armed forces to honour the State party's commitments under the Convention in order to restore peace and security and to maintain a frank and constructive dialogue with the population of Côte d'Ivoire, as is done by the Forum for National Reconciliation.

39. The Committee recalls the State party's request to have an international commission of inquiry set up to carry out investigations and establish the facts throughout the national territory in order to identify cases of serious violations of human rights and international humanitarian law since 19 September 2002. The Committee urges the State party to take the necessary measures and create the necessary conditions for such an inquiry and to include all the information on this question in its next periodic report.

40. The Committee recommends that, in its next periodic report, the State party provide full and detailed information on the measures taken at the national level to implement the provisions of article 5 in order to prevent and criminalize any form of discrimination in the enjoyment by the different ethnic groups of economic, social and cultural rights.

41. The Committee urges the State party to strengthen the measures guaranteeing the contribution of civil society organizations to the promotion of inter-ethnic harmony and expresses the hope that the next periodic report will describe the role of these organizations, including their participation in action to combat discrimination by publicizing the Convention.

42. The Committee recommends that, in giving effect in its internal legal system to the provisions of the Convention, particularly those of articles 2 to 7, the State party take account of the relevant parts of the Durban Declaration and Programme of Action and include information in its next periodic report on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

43. The Committee notes that the State party has not made the optional declaration under article 14 of the Convention and strongly urges it to consider making such a declaration.

44. The Committee strongly recommends that the State party ratify the amendment to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111 of 15 December 1992. In this connection, the Committee draws the State party's attention to General Assembly resolution 57/194 of 18 December 2002, in which the Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

45. The Committee recommends that the State party disseminate its periodic reports widely among the public at large as soon as they have been submitted and that the Committee's concluding observations be publicized in the same way.

46. The Committee recommends that the State party submit its fifteenth, sixteenth and seventeenth periodic reports in one document, due on 3 February 2006, and that it should reply to all the questions raised in these concluding observations.

ECUADOR

47. The Committee considered the thirteenth to sixteenth periodic reports of Ecuador, due from 4 January 1994 to 4 January 2000, respectively, and submitted as one document (CERD/C/384/Add.8), at its 1556th and 1557th meetings (CERD/C/SR.1556 and CERD/C/SR.1557), held on 4 and 5 March 2003. At its 1580th meeting (CERD/C/SR.1580), held on 20 March 2003, it adopted the following concluding observations.

A. Introduction

48. The Committee welcomes the detailed reports submitted by the State party and appreciates the updated information provided orally by the delegation, as well as its frank and straightforward answers to the questions and comments formulated by members of the Committee. However, the Committee notes that the constructive dialogue it was thus able to resume with the State party after 10 years of interruption could have been further enhanced if it had taken place earlier.

B. Positive aspects

49. The Committee notes with satisfaction that the 1998 Constitution, as well as other legal provisions, guarantee special measures of protection for indigenous and Afro-Ecuadorian people and criminalize racial discrimination against these and other ethnic minorities. It also notes that the State party has adopted legislation which criminalizes the illegal smuggling of people across the country's borders under often inhumane conditions ("*coyoterismo*").

50. The Committee welcomes the adoption of several action plans within the framework of the State party's National Human Rights Plan, in particular those on the rights of black persons and on the rights of foreigners, migrants, refugees and stateless and displaced persons, as well as the State party's efforts to promote the adoption of other action plans, in particular on the rights of indigenous peoples.

51. The Committee welcomes the creation by the State party of an Ombudsman's Office with special units for indigenous and Afro-Ecuadorian affairs, and of a Commission for Public Coordination of Human Rights.

52. The Committee welcomes the introduction of a bilingual education system in Ecuador for teaching some 94,000 indigenous children in both Spanish and their own languages.

53. The Committee notes with satisfaction that the State party has ratified ILO Convention (No. 169) concerning Indigenous and Tribal Peoples in Independent Countries of 1989 and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families of 1990.

54. The Committee also welcomes the State party's expressed intention to ratify the amendment to article 8, paragraph 6, of the International Convention on the Elimination of All Forms of Racial Discrimination. In this connection the Committee refers to General Assembly resolution 57/194 of 18 December 2002 in which the Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

C. Concerns and recommendations

55. The Committee expresses its concern about the lack of consistent statistical data on the ethnic composition of the Ecuadorian population. While it recognizes the difficulties in establishing criteria for defining the different ethnic groups, the Committee emphasizes that such data are necessary to ensure the application of special legislation in favour of these groups.

56. The Committee recommends that the national institutions responsible for the advancement of the rights of indigenous and Afro-Ecuadorian people, in particular the Council for the Development of Ecuadorian Nationalities and Peoples (CODENPE), the Council for Afro-Ecuadorian Development (CODAE) and the Ombudsman's Office, be further strengthened. The interlinkages and delimitation of responsibilities between the numerous institutions working in this field should be explained in the State party's next report. The Committee also recommends that the State party strengthen, through adequate funding and other appropriate means, the recently established Commission for Public Coordination of Human Rights.

57. The Committee notes that, despite constitutional and legal guarantees, indigenous and Afro-Ecuadorian people, as well as members of other ethnic minorities are, de facto, still discriminated against. It urges the State party to ensure the practical application of the constitutional and legal provisions which outlaw racial discrimination and to guarantee special protection measures in favour of indigenous and Afro-Ecuadorian people, as well as members of other ethnic minorities, in particular through the national courts and other competent bodies such as the Ombudsman.

58. Serious concern is expressed about reported instances of excessive use of force by the police and armed forces against indigenous people, particularly in the context of political demonstrations and civil unrest. The Committee recommends that the State party ensure that

such acts are avoided and, in this connection, recommends that the State party include human rights education in the professional training of police and armed forces, as well as prison staff, and requests it to report on any measures taken in this regard.

59. While welcoming the sincerity with which the State party recognizes the existence of de facto discrimination against indigenous people, Afro-Ecuadorians and members of other minorities, the Committee is concerned that a disproportionately high percentage of persons belonging to ethnic minority groups often do not enjoy equal access to the labour market, land and means of agricultural production, health services, education and other facilities and, accordingly, a disproportionately high percentage of members of these groups live in poverty. The Committee urges the State party to intensify its efforts to raise the living standards of these groups, with a view to ensuring their full enjoyment of the economic, social and cultural rights enumerated in article 5 of the Convention. The State party is requested to include in its next report precise figures as well as some key indicators relating to the enjoyment of economic, social and cultural rights by the different ethnic groups, disaggregated by urban/rural population, age and gender.

60. With regard to the important problem of illiteracy among indigenous and Afro-Ecuadorian people, the Committee recommends that the State party take measures to increase the number of bilingual teaching personnel, in particular from among these communities. The State party's next report should contain precise data as to the percentage of the indigenous, Afro-Ecuadorian and other minority populations having access to primary, secondary and university education, as well as on access by these groups to programmes in their language on the radio, on television and in other mass media.

61. The Committee notes that women belonging to ethnic minorities are subject to double discrimination, based on their ethnic origin as well as their gender. Information relating to gender-related discrimination against indigenous and Afro-Ecuadorian women and on action taken by the State party in this regard should be included in the next periodic report. In formulating the action plan on the rights of women, the State party should address the problem of double discrimination against women belonging to ethnic minorities as well as their lack of political representation in Ecuador, in line with the Committee's General Recommendation XXV on gender-related dimensions of racial discrimination.

62. As to the exploitation of the subsoil resources of the traditional lands of indigenous communities, the Committee observes that merely consulting these communities prior to exploiting the resources falls short of meeting the requirements set out in the Committee's general recommendation XXIII on the rights of indigenous peoples. The Committee therefore recommends that the prior informed consent of these communities be sought, and that the equitable sharing of benefits to be derived from such exploitation be ensured. Detailed information on land titles of indigenous communities, as well as on remedies available to indigenous people claiming compensation for the environmental depletion of their traditional lands, should be included in the State party's next periodic report.

63. The Committee is concerned about the lack of confidence on the part of members of ethnic minorities in the Ecuadorian judicial system. The State party is requested to report on the causes of this lack of confidence, and on whether the current reform of the judicial system has made it more efficient and more easily accessible for the poor.

64. The Committee recommends that the State party disseminate widely information on the available domestic remedies for acts of racial discrimination, on the legal avenues for obtaining compensation in cases of discrimination and on the individual complaint procedure under article 14 of the Convention.

65. The Committee notes the lack of information in the State party's report on the functioning of the indigenous judicial systems and recommends that such information be provided in its next periodic report.

66. The Committee is concerned at the reports on discrimination and hostility suffered by migrants and calls on the State party to intensify its efforts in designing and implementing educational campaigns to combat racial discrimination within all sectors of society.

67. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on the measures taken to implement the Durban Declaration and Programme of Action at the national level.

68. The Committee encourages the State party to consult with organizations of civil society working for the promotion of human rights during the preparation of the next periodic report, and recommends that the periodic reports be made readily available to the public from the time they are submitted and that the observations of the Committee on these reports be similarly publicized.

69. The Committee recommends that the State party submit its seventeenth periodic report jointly with its eighteenth and nineteenth periodic reports, due on 4 January 2006, and that it address all points raised in the present concluding observations.

FIJI

70. The Committee considered the sixth to fifteenth periodic reports of Fiji, which were due from 10 February 1984 to 10 February 2002, respectively, submitted in one document (CERD/C/429/Add.1), at its 1566th and 1567th meetings (CERD/C/SR.1566 and CERD/C/SR.1567), held on 11 and 12 March 2003. At its 1582nd meeting, held on 21 March, it adopted the following concluding observations.

A. Introduction

71. The Committee welcomes the sixth to fifteenth periodic reports, the supplementary report, and the additional oral information and responses from the State party's high-level delegation. It welcomes the resumption of the dialogue after a lapse of 18 years and appreciates, in particular, the efforts made by the State party to respond to the issues raised in the Committee's observations made in 2002 during a preliminary dialogue with the representative of the Government of Fiji.

72. The Committee hopes that the State party will hereafter ensure that all its periodic reports are submitted on time, as required by article 9 of the Convention.

B. Factors and difficulties impeding the implementation of the Convention

73. The Committee recognizes the challenges faced by Fiji in respect of its historical legacies, in particular the political, social and economic consequences of the deployment of numerous labourers from India, the establishment of an ethnically stratified labour market and the creation of an economic system during colonial rule which separated rather than united Fiji's different communities.

C. Positive aspects

74. The Committee notes with appreciation that the State party provided detailed information, including statistical data, relating to the composition of the Fijian population and the situation of the various Fijian ethnic groups.

75. The Committee notes the State party's intention to promote stability in the multi-ethnic and multicultural Fijian society, to restore and rebuild confidence among its citizens and communities and to strengthen the foundation for economic growth and prosperity for all in Fiji. It welcomes the creation of a Ministry of Reconciliation to help unite all Fijians.

76. The Committee notes with satisfaction that the State party considers the Convention as a solid basis for dialogue and cooperation with civil society. It appreciates that human rights non-governmental organizations were consulted in the compilation of the report, and the assurances that the State party would continue this dialogue in the future.

77. The Committee expresses its appreciation for the inclusion, in the 1997 Constitution of Fiji, of a Social Justice Chapter (sect. 44), calling for the elaboration of programmes designed to achieve, for all groups or categories of persons who are disadvantaged, effective equality of access to education and training, land and housing, and participation in commerce and all levels and branches of State public services.

78. The Committee notes with appreciation the creation in 1999 of a National Human Rights Commission, in compliance with section 42 of the Constitution and in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights ("Paris Principles"), endorsed by the General Assembly in its resolution 48/134.

79. The Committee appreciates the 2002 Agreed Statement by the Prime Minister and the Parliamentary Leader of the Fiji Labour Party urging their respective parties to refrain from making racial statements during parliamentary sessions.

80. The Committee welcomes the information given by the delegation that the Citizens' Constitutional Forum, which had been deregistered under the Charitable Trusts Act, should be registered under another appropriate law and that consultations in this regard are under way.

D. Concerns and recommendations

81. The Committee notes with concern that the State party formulated, upon accession, declarations and reservations relating to articles 2, 3, 4, 5 and 6 of the Convention. The Committee suggests that the Fijian authorities review those reservations, which are inherited from colonial times, with a view to withdrawing them, taking into account paragraph 75 of the

Durban Plan of Action. The State party should ensure that the specific protection and enhancement of indigenous Fijians' rights comply with international standards relating to the prohibition of racial discrimination.

82. The Committee is deeply concerned about the damage to race relations caused by the 1987 and 2000 coups d'état in Fiji. It encourages the State party to address perceptions that the State party continues to politicize culture, identity and ethnicity in order to maintain indigenous Fijian hegemony.

83. The Committee is deeply concerned that section 99 of the 1997 Constitution, which ensures power-sharing between ethnic communities through the creation of a multiparty Cabinet, is not currently being implemented. The Committee welcomes, however, the assurances given by the State party that it will comply with the Supreme Court ruling to be issued later this year on this matter.

84. The Committee welcomes the commitment of the State party to ensure the social and economic development as well as the right to cultural identity of the indigenous Fijian community. None of these programmes, however, should abrogate or diminish the enjoyment of human rights for all, which can be limited solely in accordance with the rules and criteria established under international human rights law. In this regard, the Committee strongly urges the State party to ensure that the affirmative action measures it adopts to pursue the above objectives are necessary in a democratic society, respect the principle of fairness, and are grounded in a realistic appraisal of the situation of indigenous Fijians as well as other communities. The Committee further recommends that the State party guarantee that the special measures adopted to ensure the adequate development and protection of certain ethnic groups and their members in no case lead to the maintenance of unequal or separate rights for different ethnic groups after the objectives for which they were taken have been achieved (article 1, paragraph 4, and article 2, paragraph 2, of the Convention).

85. The Committee notes that despite reports that levels of poverty among all Fijian nationals, including Indo-Fijians and Banabans, have worsened over the years, the State party's affirmative action programmes, as adopted under the Social Justice Act of 2001 and the 50/50 by year 2020 plan, mainly target indigenous Fijians and Rotumans. The Committee strongly recommends that the State party ensure that its poverty alleviation programmes benefit all poor Fijian citizens, irrespective of their ethnic origin, to avoid undue stress on already strained ethnic relations. It also recommends that the adoption of any affirmative action programme be preceded by consultations involving all ethnic communities.

86. The Committee is concerned about current perceptions amongst some Fijians that the State party is not paying enough attention to the issue of reconciling the different population groups in Fiji. It encourages the State party to explicitly promote a national identity that unites rather than divides indigenous and Indo-Fijians, as well as other communities, and to include this objective in its development plans.

87. The Committee expresses concern about the underrepresentation of Indo-Fijians and other ethnic minorities in the police, the army and other public services in general, and recommends that specific programmes be adopted to ensure appropriate representation of all ethnic communities in these services. The Committee requests that updated statistics on poverty,

unemployment and education, disaggregated between and within ethnic groups, be elaborated and included in the next periodic report. It also requests the State party to inform it of the results of all its affirmative action programmes, in particular those relating to poverty alleviation.

88. The Committee is concerned that the expiry of many leases of Native land has allegedly led to the "eviction" of numerous farmers, mainly Indo-Fijians, and that the resettlement programme of the State party appears to be insufficient. The Committee underlines the State's responsibility to provide assistance to "exited tenants", and recommends that it increase its efforts to compensate and resettle affected families. The Committee urges the State party to develop measures of conciliation between indigenous Fijians and Indo-Fijians over the land issue, with a view to obtaining a solution acceptable to both communities.

89. The Committee wishes to receive more detailed information in the next periodic report about the exact number of "exited", resettled and compensated persons, disaggregated by ethnic membership, as well as on the way the State party plans to respond to the expected expiry of many more leases.

90. The Committee is concerned that, according to some information, hate speech and assertions of the supremacy of indigenous Fijians occur regularly. The Committee recommends that the State party adopt all necessary measures to put an end to the dissemination of doctrines of superiority based on ethnic origin, which are socially unjust and dangerous, as well as in breach of the Convention. The Committee wishes to receive, in the next periodic report, information relating to the effectiveness of the 2002 Agreed Statement relating to the prohibition of racial statements in Parliament, and to any other measures adopted to strongly oppose such statements in other public forums, including the media.

91. The Committee notes that the word "person" in the relevant provisions of the Penal Code concerning sedition and in the Public Order Act concerning incitement to racial antagonism also includes organizations, and would like to receive further details on this matter. The Committee notes, however, that the legislation provides for sentences such as imprisonment and fines, but not for the prohibition of racist organizations. While taking note of the State party's declaration on article 4 of the Convention, the Committee considers that the State party's legislation does not fully comply with article 4. The Committee recommends that the State party adopt specific and unambiguous legislation relating to the prohibition of racist organizations. The Committee is furthermore concerned that the State party has expressed, in its periodic report, its reluctance to prohibit racist organizations in order to preserve the freedoms of expression and association, and refers the State party to its general recommendation XV (42) of 17 March 1993 on article 4.

92. The Committee is concerned about information relating to racist attacks and acts of religious intolerance against Indo-Fijians, in particular during the 1987 and 2000 coups. It underlines that no in-depth information relating to the prosecution of the authors of such acts, or on the adoption of preventive measures for the future, has been provided. The Committee therefore requests that such information be provided in the next periodic report. Information, including statistical data, on the practical implementation and efficiency of legislation implementing article 4 of the Convention is also requested.

93. The Committee takes note of information on the growing rate of suicide among Indo-Fijians, and recommends that the State party conduct research into the causes of this phenomenon and keep the Committee informed.

94. The Committee recommends that the State party continue to support the activities of the National Human Rights Commission. It would like to receive more information about the results of its activities, as well as on the practical implications of article 27 of the Human Rights Commission Act, authorizing the Commission not to investigate a case when it "has before it matters more worthy of its attention" or when the "resources of the Commission are insufficient for adequate investigation".

95. While welcoming the assurance given by the State that schools are not racially separated in Fiji, the Committee wishes to receive more information on the consequences and the practical implementation of the Education (Establishment and Registration of Schools) Regulation, which states that "while a registered or recognized school may, when selecting pupils for admission give preference to pupils of a particular race or creed, no admission shall be denied solely on grounds of race or religion". The Committee also wishes to know whether the State party enhances and financially supports multiracial schools. It would appreciate disaggregated data relating to any support provided to the various community and religious schools.

96. The Committee wishes to receive, in the next periodic report, information on the legal status of persons of mixed ethnic parentage and of the various languages spoken in Fiji.

97. The Committee notes the State party's view that the remedies provided under national and international law are sufficient, and that making the declaration provided for in article 14 of the Convention is not necessary. The Committee, stressing that the State party has not provided enough information to demonstrate that the available remedies are sufficient, reminds the State party that the remedies provided in article 14 of the Convention may be considered as complementary to the existing ones. It therefore invites the State party to reconsider its position and to envisage the possibility of making the declaration.

98. The Committee strongly recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111. In this connection, the Committee refers to General Assembly resolution 57/194 of 18 December 2002, in which the Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

99. The Committee encourages the State party to consult with organizations of civil society working to combat racial discrimination during the preparation of the next periodic report.

100. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on action plans or other measures taken to implement the Durban Declaration and Programme of Action at national level. It also suggests that the State party envisage elaborating a national plan of action to combat racism and, to this effect, avail itself of the technical assistance offered by the Office of the United Nations High Commissioner for Human Rights.

101. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted to the United Nations and that the observations of the Committee on these reports be similarly publicized.

102. The Committee recommends that the State party submit its sixteenth periodic report jointly with its seventeenth periodic report, due on 10 February 2006, and that it address all points raised in the present concluding observations.

GHANA

103. The Committee considered the sixteenth and seventeenth periodic reports of Ghana, which were due on 4 January 2000 and 2002, respectively, and were submitted as one document (CERD/C/431/Add.3), at its 1574th and 1575th meetings (CERD/C/SR.1574 and CERD/C/SR.1575), held on 17 and 18 March 2003. At its 1581st meeting (CERD/C/SR.1581), held on 21 March, it adopted the following concluding observations.

A. Introduction

104. The Committee welcomes the detailed report submitted by the State party and appreciates that the high-level delegation of the State party included a member of the Commission for Human Rights and Administrative Justice (CHRAJ) of Ghana. It commends the delegation for providing the Committee with comprehensive additional information.

B. Factors and difficulties impeding the implementation of the Convention

105. The Committee notes that the insufficient education infrastructure, the high illiteracy rates in certain areas in Ghana, as well as the existence of some negative traditional practices constitute impediments to the full implementation of the Convention.

C. Positive aspects

106. The Committee notes with appreciation the quality of the report and the frankness and openness with which the State party has dealt with the situation in Ghana relevant to the Convention.

107. The Committee appreciates the approach adopted by the State party that seeks to respect the customs and traditions of various ethnic groups on its territory, while at the same time enhancing the enjoyment of human rights for all. It further notes that, under article 26 of the Constitution, which protects cultural rights, customary practices which dehumanize or are injurious to the physical and mental well-being of a person are prohibited.

108. The Committee notes with satisfaction the important role played by the CHRAJ in the protection of human rights, particularly the right to be protected from racial discrimination and intolerance, as well as the activities carried out in the field of human rights education and tolerance by both the CHRAJ and the National Commission for Civic Education (NCCE). The decentralized set-up of the CHRAJ and its ongoing cooperation with civil society are noted with satisfaction; the Committee considers that these are good ways to reach out to people and to secure better implementation of the Convention.

109. The Committee welcomes the ongoing process of elaboration of a national plan of action to combat racism and the involvement of non-governmental organizations in this regard.

110. The Committee appreciates the assurance given by the delegation that the Government of Ghana will give serious consideration to the possibility of making the declaration provided for in article 14, as well as to the ratification of the amendments to article 8, paragraph 6, of the Convention. In this connection, the Committee refers to General Assembly resolution 57/194 of 18 December 2002 in which the Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

D. Concerns and recommendations

111. The Committee is concerned that the existence of ethnic discrimination persists as an undercurrent in Ghanaian society and that, according to a 1997 survey, 25 per cent of respondents felt discriminated against due to their tribal origins. The Committee recommends that high priority be given to the eradication of discriminatory practices and racial prejudices in Ghana, through the strengthening of education in general and of human rights education programmes in particular, the criminalization of acts of racial discrimination and effective punishment.

112. The Committee is particularly concerned about the occurrence of sporadic violent ethnic conflicts in Ghana and welcomes the efforts undertaken by the State party in this regard. It notes, in particular, the role of traditional and religious leaders in the resolution of conflicts relating to land and chieftaincy or involving customary law. The Committee requests the State party to include, in its next periodic report, more information on the roots of such conflicts, on the kinds of settlements generally reached and on the concrete measures adopted to prevent their recurrence. It also requests further information on how the District and Regional Security Councils operate in practice.

113. The Committee expresses its concern about the existence of certain negative traditional practices that, according to the report, discriminate against people on racial or ethnic grounds, in particular in cases of interracial or inter-ethnic marriages. The Committee wishes to receive information on the measures adopted to eradicate such practices.

114. While noting the legislative and other measures adopted to eradicate practices that are harmful to the health and dignity of women, the Committee is concerned that some practices, in particular female genital mutilation, degrading treatment of widows and the Trokosi system, still occur, and wishes to be further informed of their ethnic dimensions. The Committee encourages the State party to continue its efforts in this field and refers the State party to its general recommendation XXV (56) of 20 March 2000 on gender-related dimensions of racial discrimination.

115. The Committee notes the existence of legal pluralism in Ghana and wishes to receive more detailed information on the application of customary law in the country, as well as on the balance generally achieved in practice between statutory law, common law and customary law.

116. Noting the task given to the National House of Chiefs to undertake an evaluation of traditional customs and practices with a view to eliminating those which are socially harmful, the Committee wishes to receive further information on the results of the activities undertaken by this institution as well as on the difficulties encountered.

117. The Committee welcomes the frankness with which the State party has stated that the existing legislation does not meet the requirements of article 4, paragraphs (a), (b) and (c), of the Convention. The Committee notes that the Criminal Code is currently being reviewed and revised, and encourages the State party to accelerate this process and to ensure that the new legislation will comply fully with article 4. The Committee also requests that information on the content of the new legislation as well as on the results of its implementation be included in the next periodic report.

118. The Committee notes that, out of a total of 9,265 complaints heard by the Commission in 2000, the CHRAJ only dealt with fewer than five complaints directly relating to alleged racial discrimination. According to the State party, the majority of the complaints received by the Commission were cases of religious discrimination which, because religion in Ghana is often related to ethnicity, could be classified, in some cases, as indirect racial discrimination. The Committee would like to receive more detailed information on this matter, as well as statistical information relating to the number of complaints having a bearing on racial discrimination, and the action taken by the Commission.

119. The Committee would like to receive further information on the mandate of and activities undertaken by the National Reconciliation Commission, as well as on the results achieved.

120. The State party's report did not include sufficient information relating to the practical implementation of article 5 of the Convention. The Committee requests that such information be included in the next periodic report, in accordance with the Committee's reporting guidelines and taking into account its general recommendation XX (48) of 8 March 1996 on article 5.

121. The Committee is concerned about the existing educational gap between populations of certain geographic areas of the country, which has an ethnic dimension. The Committee encourages the Ghanaian authorities to pursue and increase the efforts already undertaken to remedy this situation. It would like to receive, in the next periodic report, information on the results of the Northern Scholarship Scheme, as well as on the criteria for selecting the beneficiaries.

122. The Committee wishes to receive more information on the legal status of native languages in Ghana and to know whether the State party supports them through various programmes in the field of education, the media, and in the administration.

123. While welcoming the efforts undertaken by the State party to include all ethnic groups in decision-making processes in matters concerning them, the Committee wishes to receive more information about the measures adopted to this effect, as well as on the results achieved.

124. The Committee wishes to know whether descent-based discrimination exists in Ghana, and draws the attention of the State party to its general recommendation XXIX on the matter.

125. The Committee encourages the State party to consult with organizations of civil society working to combat racial discrimination during the preparation of the next periodic report.

126. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on action plans or other measures taken to implement the Durban Declaration and Programme of Action at the national level. The Committee wishes to be informed about the adoption and the content of the national plan of action to combat racism which is currently under consideration.

127. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted to the United Nations and that the observations of the Committee on these reports be similarly publicized.

128. The Committee recommends that the State party submit its eighteenth periodic report jointly with its nineteenth periodic report, due on 4 January 2006, and that it address all points raised in the present concluding observations.

MOROCCO

129. The Committee considered the fourteenth, fifteenth and sixteenth periodic reports of Morocco, due on 17 January 1998, 2000 and 2002, respectively, submitted as one document (CERD/C/430/Add.1 and CERD/C/430/Add.1 (Suppl.)), at its 1554th and 1555th meetings (CERD/C/SR.1554 and CERD/C/SR.1555), held on 3 and 4 March 2003. At its 1579th meeting, held on 20 March 2003 (CERD/C/SR.1579), it adopted the following concluding observations.

A. Introduction

130. The Committee welcomes the reports submitted by the State party and the additional information provided orally by the delegation. It commends the State party for submitting reports regularly. The Committee was encouraged by the fact that the Government was represented by a large, high-level delegation and that it provided frank and constructive responses to Committee members' questions and comments.

B. Positive aspects

131. The Committee welcomes the State party's continued efforts to promote the culture of human rights, including the objectives of the Convention, particularly in the context of its national human rights education programme, which was launched in cooperation with the Office of the High Commissioner for Human Rights (OHCHR) and is now in its final stage.

132. The Committee also welcomes the establishment on 15 April 2000 by the Ministry of Human Rights, in cooperation with OHCHR and the United Nations Development Programme, of a human rights documentation, information and training centre.

133. The Committee notes with interest that the powers, composition and working methods of the Consultative Council on Human Rights, a national institution established in 1990, were amended in 2001 in order to enhance the Council's efficiency and independence in keeping with the "Paris Principles" endorsed by the General Assembly in its resolution 48/134.

134. The Committee also welcomes the establishment of an Ombudsman, known as the Diwan Al Madhalim, which is required, inter alia, to receive and consider complaints submitted by Moroccan citizens who consider themselves harmed by a decision or action taken by a State authority.

135. The Committee notes with satisfaction the increased attention being paid to the Amazigh culture, as illustrated by the establishment by His Majesty King Mohammed VI of the Royal Institute of Amazigh Culture on 17 October 2001.

136. The Committee welcomes the information provided by the State party on the amendments to the Code of Public Freedoms and the Press Code and on the ongoing revision of the Labour Code, as requested by the Committee in its previous concluding observations.

137. The Committee welcomes the steps taken by the State party to make the declaration provided for in article 14 of the Convention and to ratify the amendment to article 8, paragraph 6, of the Convention.

C. Concerns and recommendations

138. While taking into account the State party's explanations concerning the difficulties encountered in determining the ethnic composition of the population, the Committee notes that information on this point is still lacking and urges the State party to provide information on the ethnic characteristics of the population of Morocco in its next report, in accordance with paragraph 8 of the Committee's guidelines.

139. The Committee invites the State party to provide information in its next report on the implementation of the provisions of the Code of Public Freedoms concerning the right of association, according to which any association inciting racial discrimination shall be considered unlawful, and of the provisions of the Press Code that punish incitement to racial discrimination, in accordance with article 4 of the Convention.

140. Noting that the draft revision of the Penal Code has still not been completed, the Committee repeats its request to the State party to bring the Code into line with article 4 of the Convention.

141. The Committee requests that the State party include in its next periodic report statistical information on prosecutions launched, and penalties imposed, in cases of offences which relate to racial discrimination, and where the relevant provisions of the existing domestic legislation have been applied. The Committee reminds the State party that the mere absence of complaints and legal action by victims of racial discrimination may be mainly an indication of the absence of relevant specific legislation, or of a lack of awareness of the availability of legal remedies, or of insufficient will on the part of the authorities to prosecute. The Committee requests the State party to ensure that appropriate provisions are available in the national legislation and to inform the public about all legal remedies in the field of racial discrimination.

142. The Committee invites the State party to review the situation of the Amazigh, in keeping with international human rights agreements, so as to ensure that members of the Amazigh community can exercise their rights to their own culture, the use of their own language, and the preservation and development of their own identity.

143. While noting the replies provided by the delegation, the Committee requests the State party to take appropriate steps to put an end to the administrative practice of prohibiting the entering of Amazigh first names in the civil register.

144. The Committee is concerned at reports that members of Amazigh associations have suffered violations of the right to freedom of assembly and association.

145. The Committee also recommends that more programmes in Amazigh be included in the public broadcast media.

146. The Committee notes that the State party has expressed a willingness to provide information on socio-economic indicators relating to the situation of the Amazigh, Blacks, Sahraouis and other minorities and would like such information to be included in the State party's next report.

147. The Committee notes the submission in November 2002 to the House of Representatives of two bills: one relating to "foreigners' entry into and residence in the Kingdom of Morocco, illegal immigration and emigration", and the other to terrorism, and draws the State party's attention to the statement on racial discrimination and measures to combat terrorism adopted by the Committee on 8 March 2002 (A/57/18, chap. XI, sect. C).

148. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and to include in its next periodic report information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

149. The Committee recommends that the State party publish its periodic reports at the time they are submitted and, in the same way, publicize the Committee's conclusions in the main languages used in the country.

150. The Committee recommends that the State party submit its seventeenth and eighteenth reports in a single document, due on 17 January 2006, and that it respond therein to all the points raised in the present concluding observations.

POLAND

151. The Committee considered the fifteenth and sixteenth periodic reports of Poland, which were due on 4 January 1998 and 2000, respectively, submitted as one document (CERD/C/384/Add.6), at its 1572nd and 1573rd meetings (CERD/C/SR.1572 and 1573), held on 14 and 17 March 2003. At its 1581st meeting (CERD/C/SR.1581), held on 21 March 2003, it adopted the following concluding observations.

A. Introduction

152. The Committee welcomes the comprehensive fifteenth and sixteenth periodic reports, submitted in one document, as well as the detailed additional information that the State party's delegation provided during its oral presentation. The Committee expresses its appreciation for the attendance of the large and high-ranking delegation and their frank and constructive responses to the questions asked.

153. The Committee is also encouraged by the answers provided in the report to many of the questions and issues raised in its previous concluding observations.

B. Positive aspects

154. The Committee welcomes the State party's withdrawal on 16 October 1997 of its reservation to article 22 of the Convention, its declaration under article 14 of the Convention, made on 1 December 1999, recognizing the Committee's competence to receive individual complaints, and its ratification on 23 August 2002 of the amendment to article 8 of the Convention.

155. The Committee welcomes the establishment of the Committee for National and Ethnic Minorities in the parliament (Sejm) in August 1999, as well as ongoing efforts to draft a comprehensive law on the protection of national minorities.

156. The Committee notes with satisfaction that the mandate of the Office of the Plenipotentiary for Equal Gender Status will be expanded to cover all forms of discrimination, including discrimination based on race or ethnicity.

C. Concerns and recommendations

157. While welcoming the State party's clarification that according to the Constitution, the Convention is directly applicable in domestic law, the Committee reiterates its request that the State party provide in its next periodic report specific examples of court decisions making reference to the Convention.

158. The Committee, while noting the State party's efforts to prohibit, through legislation, all dissemination of ideas based on racial superiority or hatred and incitement to racial hatred, reminds the State party of its obligation under article 4 to prohibit all organizations and activities, including those of the mass media, which promote and incite racial discrimination. It suggests that the State party strengthen its efforts to implement existing legislation in this regard.

159. The Committee is concerned that some cases of incitement to racial hatred have been dismissed with reference to their low degree of damage to society. The Committee expresses the view that, according to the Convention, all such cases are very harmful to society.

160. The Committee is concerned about reports of racially motivated harassment and discrimination against Jews, Roma and persons of African and Asian origin which have not been properly investigated by the law enforcement agencies. The Committee recommends that the State party intensify its efforts to combat and punish all such cases, especially through the strict

application of relevant legislation and regulations providing for sanctions. It further recommends that law enforcement bodies be given adequate training and instructions on how to address complaints of racially motivated crimes and that similar training be provided to the judiciary.

161. The Committee shares the State party's concern about reports of irregularities during the census with regard to the recording of information of persons claiming a nationality other than Polish. It recommends that the State party take all effective measures to prevent similar incidents in the future.

162. The Committee welcomes the State party's efforts to implement the comprehensive programme to guarantee the rights of the Roma population in the Malopolska region and encourages the State party to extend the programme to other regions of the country, taking into account general recommendation XXVII (57) of 16 August 2000 concerning discrimination against Roma. It further recommends that the State party pay particular attention to the rights to housing and to employment of the Roma population, and requests the State party to include information on the economic, social and cultural rights of Roma in its next periodic report.

163. The Committee notes efforts to meet the specific educational needs of Roma children, but is concerned that in some cases these efforts have led to segregated classes having a lower standard of education than the Polish counterparts. The Committee recommends that new programmes integrate Roma children into mainstream schools as far as possible, in order to avoid discrimination, and that the State party recruit more teachers and teaching assistants from the Roma minority. The Committee invites the State party to include in its next periodic report more detailed information on this issue and on the progress achieved.

164. The Committee notes with satisfaction efforts to include human rights education in the school curriculum and encourages the State party to expand these efforts beyond the school system in order to promote understanding and tolerance among all racial and ethnic groups in society. In this regard, particular attention should be paid to the role of the mass media.

165. The Committee encourages the State party to consult with organizations of civil society working to combat racial discrimination during the preparation of the next periodic report.

166. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on action plans or other measures taken to implement the Durban Declaration and Programme of Action at the national level.

167. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the observations of the Committee on these reports be similarly publicized.

168. The Committee recommends that the State party submit its seventeenth periodic report jointly with its eighteenth and nineteenth periodic reports, due on 4 January 2006, and that it address all points raised in the present concluding observations.

RUSSIAN FEDERATION

169. The Committee considered the fifteenth to seventeenth periodic reports of the Russian Federation, due on 6 March 1998, 2000 and 2002, respectively, submitted in one document (CERD/C/431/Add.2), at its 1564th and 1565th meetings (CERD/C/SR.1564 and 1565), held on 10 and 11 March 2003. At its 1580th and 1581st meetings (CERD/C/SR.1580 and 1581), held on 20 and 21 March, it adopted the following concluding observations.

A. Introduction

170. The Committee welcomes the submission of the fifteenth to seventeenth periodic reports, submitted in one document, as well as the additional information provided by the State party's delegation during its oral presentation. The Committee expresses its appreciation for the attendance of a high-ranking delegation and for the constructive dialogue which the Committee was able to have with the State party.

B. Positive aspects

171. The Committee welcomes the adoption and entry into force of the Labour Code, and in particular the provisions aiming at the eradication of discrimination in labour relations.

172. The Committee notes with appreciation the concrete measures taken by the State party against extreme nationalist and racist organizations.

173. The Committee welcomes the adoption in 2001 of a special federal programme entitled "Shaping an attitude of tolerance and preventing extremism in Russian society, 2001-2005".

174. The Committee welcomes the adoption of a number of laws that aim at protecting the rights of indigenous peoples. The Committee also notes with satisfaction the statement by the State party's delegation that preparatory work for the ratification of ILO Convention No. 169 has been accelerated.

175. The Committee welcomes the efforts taken to enhance cooperation between the State party and civil society organizations, including the ongoing activities relating to the 2001 Civic Forum.

176. The Committee welcomes the State party's ratification in 2001 of the Council of Europe Framework Convention for the Protection of National Minorities.

177. The Committee notes with satisfaction the assurances given by the delegation of the State party that displaced persons from Chechnya living in neighbouring regions will be allowed to vote in the referendum in Chechnya on a new constitution.

C. Concerns and recommendations

178. The Committee notes with concern the absence of a definition of racial discrimination in domestic legislation. While laws may protect against discrimination without employing the

actual term "discrimination", the Committee encourages the State party to consider introducing into relevant laws an explicit prohibition of racial discrimination as defined in article 1 of the Convention.

179. The Committee takes note that a number of institutions, including the Procurator's Office, the Federal Commissioner for Human Rights and the Presidential Commission on Human Rights, deal with cases of racial discrimination within the framework of a broader concern with human rights. In order to get a clear focus on the work of these institutions, the Committee requests that the State party provide, in its next periodic report, information on cases relating to racial discrimination examined by these bodies.

180. The Committee expresses concern that a large number of former Soviet citizens who previously resided legally in the Russian Federation have been considered illegal migrants since the entry into force in 2002 of the Federal Laws on Russian Citizenship and on the Legal Status of Foreign Citizens in the Russian Federation. The Committee urges the State party to take steps to regularize the position of persons in this category.

181. The Committee is concerned at reports of racially selective inspections and identity checks targeting members of specific minorities, including those from the Caucasus and Central Asia and Roma. The Committee recommends that the State party take immediate steps to stop the practice of arbitrary identity checks by law enforcement authorities. These steps should include the education and sensitization of police and law enforcement personnel to ensure that, in the performance of their duties, they respect and protect the human rights of all persons without distinction as to race, colour, or national or ethnic origin.

182. The Committee is concerned about numerous reports that residence registration is used as a means of discriminating against certain ethnic groups, and that the lack of residence registration is used to deny a number of political, economic and social rights. While welcoming the fact that courts in the State party have declared such practices unconstitutional, the Committee recommends that the State party ensure that, in the implementation of the residence registration system, the standards laid down in federal law and supported by decisions of the Constitutional and Supreme Courts are strictly applied.

183. The Committee is concerned about consistent reports of discrimination against Meskhetians in Krasnodar Krai, including arbitrary denial of residence registration and of formal recognition of citizenship. The Committee urges the State party to ensure that the Meskhetians in Krasnodar Krai, who arrived in the Russian Federation in 1989-1991, are given residence registration and enjoy the rights and benefits of citizenship. Also, the Committee urges the State party to ensure that the local authorities do not pressure Meskhetians to resettle outside Krasnodar Krai.

184. While appreciating the particular history of Cossacks in the Russian Federation, the Committee is concerned at reports that some Cossack organizations have engaged in acts of intimidation and violence against ethnic groups. According to information received by the Committee, these organizations, which function as paramilitary units and are used by local authorities to carry out law enforcement functions, enjoy special privileges, including State funding. In this regard, the Committee recommends, in accordance with article 2 (b) of the

Convention, that the State party ensure that no support is provided to organizations which promote racial discrimination and that it prevent Cossack paramilitary units from carrying out law enforcement functions against ethnic groups.

185. The Committee is concerned that Chechens who have sought refuge outside Chechnya in the territory of the State party are denied forced migrant status. The Committee encourages the State party to take effective measures to ensure that no group is discriminated against in the granting of forced migrant status.

186. The Committee is concerned about reports that displaced persons have been pressured into leaving camps while conditions of safety for their return to Chechnya are not ensured. The Committee recommends that the State party take effective measures to ensure that the return of displaced Chechens to Chechnya is voluntary and takes place in conditions of safety and dignity.

187. The Committee requests further information on the protection provided to refugees and asylum-seekers in the State party and on whether children of asylum-seekers are able to attend school.

188. The Committee is concerned about the difficult situation facing indigenous peoples in the State party. In this regard, the Committee requests that the State party provide, in its next periodic report, information on the results obtained through the implementation of laws and federal programmes to protect the rights of indigenous peoples. In particular, the Committee requests information on the establishment of traditional subsistence territories under federal law and on the impact of the Land Code of 2001 on the property rights of indigenous peoples.

189. In view of the many laws pertinent to the Convention, which are considered by, and adopted on the initiative of, the State Duma's Committee on Nationalities, an update on the activities of this Committee, including on the work on a federal bill to protect the right of minorities, is requested in the next periodic report.

190. While welcoming the steps taken to implement article 4 of the Convention, the Committee is concerned about the lack of a clear definition of the concept of political extremism in the federal law of 2002 "On Counteracting Extremist Activities". The Committee encourages the State party to review the law with a view to defining its scope more clearly.

191. The Committee requests information, in the next periodic report, on how articles of the Penal Code pertinent to article 4 of the Convention, as well as the federal law "On Counteracting Extremist Activities", are being implemented, including statistics on the number of complaints that have been filed and the outcome of these cases.

192. While acknowledging the efforts made to confront the scourge of terrorism, the Committee is concerned about reports that members of particular groups, notably Chechens, are singled out by law enforcement officials. In this regard, the Committee draws the State party's attention to its statement of 8 March 2002 in which the Committee underlines the obligation of States to "ensure that measures taken in the struggle against terrorism do not discriminate in purpose or effect on grounds of race, colour, decent, or national or ethnic origin" (A/57/18, chap. XI, sect. C, para. 5).

193. The Committee is concerned about reports that racist materials targeting minority groups and perpetuating negative stereotypes are disseminated in the national media. The Committee recommends that the State party monitor the situation closely and provide, in its next periodic report, detailed information on any legal proceedings instituted against media companies.

194. With regard to the upcoming referendum in Chechnya, the Committee recommends that the State party support public debate on the constitution of the Chechen Republic and make every effort to ensure that the referendum will serve as a step towards bringing peace back to the region.

195. The Committee is concerned about the incidence of violent racist attacks against ethnic minorities by, among others, skinheads and neo-Nazis. In this regard, the Committee recommends that the State party strengthen its efforts to prevent racist violence and protect members of ethnic minorities and foreigners, including refugees and asylum-seekers. Also, the Committee requests that the State party provides in its next periodic report a list of the cases that have been investigated and brought before the courts.

196. The Committee encourages the State party to consult with organizations of civil society working to combat racial discrimination during the preparation of the next periodic report.

197. The Committee strongly recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111. In this connection, the Committee refers to General Assembly resolution 57/194 of 18 December 2002 in which the Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendments and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

198. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on action plans or other measures taken to implement the Durban Declaration and Programme of Action at the national level.

199. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the observations of the Committee on these reports be similarly publicized.

200. The Committee recommends that the State party submit its eighteenth periodic report jointly with its nineteenth periodic report, due on 6 March 2006, and that it address all points raised in the present concluding observations.

SAUDI ARABIA

201. The Committee considered the initial and second reports of Saudi Arabia, submitted as one document (CERD/C/370/Add.1), and the third periodic report (CERD/C/439/Add.1), at its 1558th and 1559th meetings (CERD/C/SR.1558 and 1559), held on 5 and 6 March 2003, and adopted the following concluding observations at its 1580th meeting (CERD/C/SR.1580), held on 20 March 2003.

A. Introduction

202. The Committee welcomes the reports submitted by the State party, including the additional answers provided in writing, and is encouraged by the attendance of a high-ranking delegation. The Committee expresses its appreciation for the dialogue which took place.

203. The Committee notes, however, that the reports submitted are not entirely consistent with its guidelines. While they provide information on relevant laws and regulations and the court system, no information was provided in the reports, or in the core document, on the political structure of the country and the demographic characteristics of the population. Moreover, there is insufficient information in the reports on how the Convention is applied in practice, and on what factors and difficulties affect its full implementation.

B. Positive aspects

204. The Committee notes the reforms in the field of human rights which the State party has embarked upon. It notes, inter alia, the enactment of new codes of judicial procedure, criminal procedure and on the legal profession; the establishment of a standing committee to investigate complaints of torture; and the recent national programme to eliminate poverty. The Committee further notes that the State party will shortly authorize the establishment of the first human rights non-governmental organization (NGO) in Saudi Arabia, and looks forward to information on this positive development in its next report.

205. The Committee welcomes the dialogue and cooperation of the State party with the United Nations human rights mechanisms, including the Special Rapporteur on the independence of judges and lawyers, as well as with international human rights NGOs.

206. The Committee welcomes the recent initiative to include non-Saudis in a health insurance system. The Committee has also noted with satisfaction that measures have been taken to put an end to the practice of employers retaining the passports of their foreign employees, in particular domestic workers. It also notes the high number of schools that have been authorized to offer programmes for the education of children of migrant workers that have been designed in their country of origin.

207. The Committee notes with satisfaction the State party's ratification on 28 February 2003 of the amendment to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention.

208. The Committee welcomes information that the State party will soon accede to the international Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

C. Concerns and recommendations

209. The broad and imprecise nature of the State party's general reservation raises concern as to its compatibility with the object and purpose of the Convention. The Committee encourages the State party to review the reservation with a view to formally withdrawing it.

210. While noting that the Basic Law, and provisions of Royal Decrees, regulations and codes, as well as the Islamic Shariah, guarantee equality, the Committee is of the opinion that the mere statement of the general principle of non-discrimination in these laws is not a sufficient response to the requirements of the Convention. The Committee recommends that the State party adopt legislation that meets the requirements of articles 2, 3 and 4 of the Convention. In this connection, the Committee draws attention to its general recommendations I, II, VII and XV, and emphasizes the preventive value of legislation expressly prohibiting racial discrimination and racist propaganda.

211. Moreover, the Committee emphasizes that guarantees of non-discrimination laid down in law, without mechanisms to monitor their application, do not on their own ensure the enjoyment of non-discrimination. It requests the State party to provide information in subsequent reports on the practical implementation and monitoring of articles 4, 5 and 6 of the Convention, including on mechanisms for receiving complaints, conducting investigations and prosecutions, and implementing consequent decisions.

212. The Committee notes that insufficient information has been provided on efforts to promote racial tolerance within the State party, such as in school curricula and public information campaigns. The Committee recommends that the State party provide this information in its next report.

213. The Committee recommends that the State party institute training programmes on human rights and understanding among ethnic groups for law enforcement officials, including policemen, military and prison staff, and members of the judiciary.

214. The Committee, noting the information provided concerning the acquisition of nationality under the Nationality Regulations, is nevertheless concerned that a Saudi woman is unable to transmit her nationality to her child when she is married to a foreign national, and that a foreign man is unable to acquire Saudi nationality in the same manner as a foreign woman. The Committee requests the State party to consider the possibility of modifying these provisions in order to conform to article 5 (d) (iii) of the Convention.

215. The Committee is concerned about reports that persons of some racial or ethnic origins are unable to manifest their religious beliefs in the State party. The Committee wishes to receive further information on this issue.

216. Noting that the law guarantees equal status to all workers, Saudi and non-Saudi, the Committee wishes to obtain further information on the practical implementation of this principle, particularly given the high proportion of migrant workers in Saudi Arabia (60 per cent of the workforce in Saudi Arabia are migrant workers).

217. The Committee is concerned about allegations of substantial prejudice against migrant workers, in particular those coming from Asia and Africa. The Committee invites the State party to report on the situation, in particular, of women domestic workers and draws the attention of the State party to its general recommendation XXV on gender-related dimensions of racial discrimination.

218. The Committee is concerned at allegations that a disproportionate number of foreigners are facing the death penalty. The Committee encourages the State party to cooperate fully with the Special Rapporteur on extrajudicial, summary and arbitrary executions who has requested information on several cases of migrant workers who have not received legal assistance and have been sentenced to death.

219. The Committee would appreciate more information on the announced "Saudization Plan", in particular on the implications of the plan for migrant workers.

220. The Committee requests the State party to include in its next periodic report statistics, disaggregated by migrants' national origin, which would provide a better understanding of the economic and social standing of non-citizens in Saudi Arabia.

221. The Committee is concerned about the situation of Iraqi refugees who have lived in the Rafha refugee camp for more than 12 years under very difficult circumstances. The Committee hopes that the State party will find a solution to this problem in the near future.

222. The Committee requests the State party to include in its next periodic report information on progress made in establishing a national human rights institution, and further details of the intended membership, mandate and status of that institution. In this connection, it draws the attention of the State party to the Paris Principles annexed to General Assembly resolution 48/134.

223. The State party is invited to include in its next periodic report specific information on the political structure and composition of the population, including its ethnic and demographic characteristics.

224. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on action plans or other measures taken to implement the Durban Declaration and Programme of Action at the national level.

225. The Committee notes that the State party has not made the declaration provided for in article 14 of the Convention and urges the State party to consider the possibility of making such a declaration.

226. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the observations of the Committee on these reports be similarly publicized.

227. The Committee recommends that the State party submit its fourth periodic report jointly with its fifth periodic report, due on 22 October 2006, and that it address all points raised in the present concluding observations.

SLOVENIA

228. The Committee considered the fifth periodic report of Slovenia, which was due on 6 July 2001 (CERD/C/398/Add.1), at its 1570th and 1571st meetings (CERD/C/SR.1570 and 1571), held on 13 and 14 March 2003. At its 1581st meeting (CERD/C/SR.1581), held on 21 March 2003, it adopted the following concluding observations.

A. Introduction

229. The Committee welcomes the fifth periodic report, which is an updating report focusing specifically on the recommendations made by the Committee in its previous concluding observations (CERD/C/304/Add.105). The Committee further welcomes the additional information provided by the State party's delegation during its oral presentation and expresses its appreciation for the opportunity to continue its dialogue with the State party.

B. Positive aspects

230. The Committee welcomes the fact that Slovenia has made the declaration under article 14 of the Convention, recognizing the competence of the Committee to examine communications from individuals or groups of individuals. The Committee encourages the State party to take steps to make this mechanism known as widely as possible.

231. The Committee notes with appreciation the steps taken with a view to ratifying the amendments to article 8, paragraph 6, of the Convention and expresses the hope that this process will be concluded soon, in line with General Assembly resolution 57/194.

232. The Committee is encouraged by the entry into force, in December 2002, of the Act amending the Citizenship Act of 1991 concerning the procedure for the acquisition of citizenship of the Republic of Slovenia for specific categories of persons residing in Slovenia.

233. The Committee is encouraged by the recent steps taken by the State party with a view to further implementing the Convention, such as the adoption of specific anti-discrimination legislation (inter alia, the Act on Media 2001, the Resolution on Migration Policy 2002, the Act amending the Local Government Act 2002, the Exercising of the Public Interest in Culture Act 2002 and the Employment Act 2002).

C. Concerns and recommendations

234. The Committee appreciates the clarification provided by the delegation of various definitions used in the report and in domestic legislation to describe ethnic and national minorities, and "indigenous" and "new" communities. However, the Committee notes the potential discriminatory effects of the various definitions of the different ethnic groups and invites the State party to include in its next periodic report detailed information on the legal definitions used for describing different minorities and their respective status.

235. The Committee expresses concern about the paucity of available data on the implementation of the Convention and emphasizes the importance of additional information, including statistical information, on the extent of integration of minorities into society. It

recommends that the State party, while ensuring protection of individual privacy, provide relevant information on the demographic composition of its population, and invites the State party to include data from the latest census (April 2002) in its next report. In this respect the Committee draws the attention of the State party to its general recommendations XXIV and IV on article 1 of the Convention and concerning reporting by States parties, and paragraph 8 of the reporting guidelines.

236. With respect to article 2 of the Convention, the Committee, while noting that the Constitution of Slovenia provides for representation in Parliament of the Italian and Hungarian minorities, observes that the issue of the representation of other minorities in the Slovenian Parliament has not been addressed. The Committee therefore recommends that the State party consider taking further measures to ensure that all groups of minorities are represented in Parliament, and to include in its forthcoming report information concerning any measures taken in this regard.

237. The Committee acknowledges the efforts made by the State party to promote cultural diversity, as well as to promote equal opportunities for the Roma and facilitate their participation in decision-making processes. However, the Committee is concerned that discriminatory attitudes and practices may still persist and that the distinction between "indigenous" Roma and "new" Roma may give rise to further discrimination. The Committee encourages the State party to pursue its current efforts to combat any discriminatory practices and attitudes against Roma which may exist, in particular in the areas of housing, employment and treatment by the police, by, inter alia, developing comprehensive proactive strategies in these fields. The Committee invites the State party to provide data on the number of persons in these groups who have benefited from affirmative action.

238. The Committee appreciates the flexible approach of the State party as regards the education of Roma children by attempting to address the issue in each given community. However, the Committee is concerned at the existing practice of educating some children in vocational centres for adults and others in special classes. Recalling its general recommendation XXVII on discrimination against Roma, the Committee encourages the State party to promote the integration of children of Roma origin into mainstream schools.

239. While the situation as to the actual implementation of article 4 of the Convention, one of its core articles, would not seem to give rise to concern, the Committee requests the State party to provide in its next periodic report statistics and information on cases of alleged racially motivated offences, their investigation, and the results of any ensuing administrative or judicial proceedings.

240. The Committee is encouraged by the steps taken by the State party to address the long-standing issue of persons living in Slovenia who have not been able to obtain citizenship. It is nevertheless concerned that many of the persons who have not acquired Slovenian citizenship may still experience administrative difficulties in complying with the specific requirements contained in the law. The Committee recommends that the State party give priority to addressing this issue and, taking into account the difficulties which have arisen, ensure that the new citizenship legislation is implemented in a non-discriminatory manner.

241. The Committee is concerned that a significant number of persons who have been living in Slovenia since independence without Slovenian citizenship may have been deprived under certain circumstances of their pensions, of apartments they were occupying, and of health care and other rights. The Committee takes note of the efforts undertaken by the State party to address these issues and requests the State party to provide, in its next periodic report, specific information on these issues and on any remedies provided.

242. The Committee encourages the State party to consult with organizations of civil society working to combat racial discrimination during the preparation of the next periodic report.

243. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on action plans or other measures taken to implement the Durban Declaration and Programme of Action at the national level.

244. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the observations of the Committee on these reports be similarly publicized, along with other texts relevant to the Convention. The Committee encourages the State party to increase its current efforts in this respect, with a view to actively reaching out to the public in general.

245. The Committee recommends that the State party submit its sixth periodic report jointly with its seventh periodic report, due on 6 July 2005, and that it address all points raised in the present concluding observations.

TUNISIA

246. The Committee considered the thirteenth to seventeenth periodic reports of Tunisia, submitted as one document (CERD/C/431/Add.4), at its 1560th and 1561st meetings (CERD/C/SR.1560 and 1561), held on 6 and 7 March 2003. At its 1575th meeting, (CERD/C/SR.1575) held on 18 March 2003, it adopted the following concluding observations.

A. Introduction

247. The Committee welcomes the thirteenth to seventeenth periodic reports, submitted in one document, as well as the additional information that the State party's delegation provided during its oral presentation, and expresses its appreciation for the opportunity to continue its dialogue with the State party.

248. The Committee notes, however, that the report, in spite of the Committee's previous observations to this effect, still contains almost exclusively information on the legislation adopted in order to give effect to the Convention and does not provide sufficient information on the extent to which individuals concretely enjoy the protection afforded by the Convention.

B. Positive aspects

249. The Committee welcomes the fact that, pursuant to article 32 of the Constitution, international instruments ratified by the State party, including the International Convention on the Elimination of All Forms of Racial Discrimination, take precedence over norms of the State party's domestic law, and may be invoked directly before the Courts.

250. The Committee commends the efforts made by the State party in the area of human rights education, including its advocacy of the principles of tolerance and respect in accordance with article 7 of the Convention, and welcomes the establishment of a national commission for human rights education.

251. The Committee welcomes the measures taken in the economic and social sphere, which have resulted in economic growth and a significant reduction of poverty. The Committee notes with interest the establishment of a National Solidarity Fund to combat poverty and marginalization, as well as the creation of a National Solidarity Bank, and appreciates the results they have achieved so far. The Committee also notes the progress already achieved towards ensuring equality between women and men in Tunisian society, as well as the observance of religious freedom, inasmuch as they impact on the promotion of non-discrimination based on ethnic origin. The Committee encourages the State party to continue along this path.

C. Concerns and recommendations

252. The Committee takes note of the view of the State party as to the homogeneity of its population. However, since the report itself refers to the liberties and rights of those who are not Arabs or Muslims, and in the light of the absence of statistical data on the ethnic composition of Tunisian society, the Committee recommends that the State party provide an estimate of the demographic composition of the population in subsequent reports, as requested in paragraph 8 of the reporting guidelines, and draws the attention of the State party to its general recommendation VIII concerning the identification of members of particular racial and ethnic groups.

253. The Committee notes that the State party did not provide information on the Berber (or Amazigh) population and on measures taken for the protection and promotion of their culture and language. In view of the absence of any reference to this group in the report, the Committee requests concrete information on their situation and recommends that increased attention be given to the situation of Berbers as a specific component of the Tunisian population.

254. The Committee does not accept any State party's assertion that there is no racial discrimination in the State party, and recommends that Tunisia avoid such generalizations in future reports. Noting that new penal laws punish racial discrimination and incitement to racial hatred as extensions of the law that penalizes terrorism, the Committee is concerned about the association of racial discrimination and terrorism. The Committee also remains concerned that the legislation of the State party does not seem to respond fully to the requirements of article 4 of the Convention. The Committee recommends that the State party review its domestic legislation in the light of general recommendation XV concerning the implementation of article 4 of the Convention, and that it adopt separate legislation on the offence of racial discrimination and the propagation of racial hatred.

255. Moreover, the Committee requests that the State party include in its next periodic report statistical information on prosecutions launched, and penalties imposed, in cases of offences which relate to racial discrimination, and where the relevant provisions of the existing domestic legislation have been applied. The Committee reminds the State party that the mere absence of complaints and legal action by victims of racial discrimination may be mainly an indication of the absence of relevant specific legislation, or of a lack of awareness of the availability of legal remedies, or of insufficient will on the part of the authorities to prosecute. The Committee requests the State party to ensure that appropriate provisions are available in national legislation, and to inform the public about all legal remedies in the field of racial discrimination.

256. The Committee notes that insufficient information was provided in the report and in the oral replies on the effective functioning of the human rights bodies and mechanisms in the State party, particularly the Higher Committee of Human Rights and Fundamental Freedoms and the Administrative Mediator. While noting the information provided by the delegation that the institution of the Administrative Mediator was further strengthened by a law introduced in February 2002, the Committee requests that in its next periodic report, the State party provide additional information on the role, responsibilities, functioning and achievements of these institutions, as well as on measures taken to ensure their independence.

257. While taking note of the information about activities of non-governmental organizations in Tunisia, the Committee also notes the absence in the report of references to the contribution of civil society in the preparation of the report itself. The Committee encourages the State party to consult with organizations of civil society working to combat racial discrimination in the preparation of reports.

258. The Committee notes that the State party has not made the declaration provided for in article 14 of the Convention, and urges it to consider the possibility of doing so.

259. The Committee strongly recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meetings of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111. In this connection, the Committee refers to General Assembly resolution 57/194 of 18 December 2002, in which the Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

260. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on action plans or other measures taken to implement the Durban Declaration and Programme of Action at the national level.

261. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the observations of the Committee on these reports be similarly publicized.

262. The Committee recommends that the State party submit its eighteenth periodic report jointly with its nineteenth periodic report, due on 4 January 2006, and that it address all points raised in the present concluding observations.

UGANDA

263. The Committee considered the second to tenth periodic reports of Uganda, which were due biennially from 21 December 1983 to 21 December 1999, submitted as one document (CERD/C/358/Add.1), at its 1562nd and 1563rd meetings (CERD/C/SR.1562 and 1563), held on 7 and 10 March 2003 At its 1577th meeting (CERD/C/SR.1577), held on 19 March 2003, it adopted the following concluding observations.

A. Introduction

264. The Committee welcomes the second to tenth periodic reports as well as the additional information that the State party's delegation provided during its oral presentation, and expresses its appreciation for the opportunity to resume its dialogue with the State party after a lapse of 20 years. The Committee hopes that the State party will hereafter ensure the timely submission of its periodic reports, as required by article 9 of the Convention.

B. Positive aspects

265. The Committee welcomes the establishment of the Ugandan Human Rights Commission, which represents a positive step in combating violations of human rights and promoting the implementation of the Convention. In addition, the Committee commends the Commission for the important role it plays in disseminating human rights information, inter alia by introducing human rights education in training schools for police, army and prison officers.

266. The Committee notes with satisfaction that the State party enacted a new Constitution in 1995 which incorporates the basic provisions of the Convention, particularly the right to equality before the law and the prohibition of racial discrimination.

267. The Committee takes note of the adoption of legal measures taken to redress past cases of racial discrimination, namely those concerning compensation for Ugandans of Asian origin who were arbitrarily expelled and their property expropriated after 1971.

268. The Committee notes the considerable investment made by the Government in the area of education and welcomes the information provided by the delegation regarding the extension of the Universal Primary Education programme to all children of school-going age.

C. Factors and difficulties impeding the implementation of the Convention

269. The Committee acknowledges that the severe political, economic and social difficulties facing the State party have had a negative impact on the situation of the most vulnerable parts of the population, notably children, refugees and minorities. In particular, the Committee notes that poverty, internal armed conflict in the north, and the HIV/AIDS pandemic have added to the difficulties which may exist in the implementation of the Convention.

D. Concerns and recommendations

270. Noting the current efforts made by the State party to develop and modernize its data processing, the Committee regrets the lack of disaggregated data or precise information on the ethnic composition of the population and on the socio-economic situation of ethnic and national

groups. The Committee reminds the State party of general recommendations IV and XXIV and calls upon it to include in its next periodic report more complete information on this issue, as well as on the representation of the various ethnic groups in public bodies and institutions.

271. In the light of the constitutional provision stipulating that the State shall take affirmative action in favour of groups marginalized on the basis of gender, age, disability or any other reason, for the purpose of redressing imbalances which exist in relation to them, the Committee requests that the State party provide in its next periodic report additional information relating to the practical implementation of this provision in accordance with article 2, paragraph 2, of the Convention.

272. While noting with satisfaction the legislative measures and judicial mechanisms in place to ensure the return of property to persons of Asian origin, the Committee regrets that such measures have not been fully carried through, due mainly to insecurity in the country and the lack of adequate administrative measures. The Committee invites the State party to provide in its next periodic report additional information regarding further possible measures or mechanisms which may be adopted to fully indemnify all the victims of such expropriations and address the increasing number of applications.

273. The Committee notes with concern that no information has been provided in the report on cases relating to the offence of sectarianism, included in the Penal Code in 1998. Accordingly, the Committee recommends that the State party provide such information in the next periodic report, including information on the number of complaints received and cases prosecuted under the Penal Code, as well as on the sentences pronounced against those found guilty and remedies provided to the victims.

274. The Committee also expresses concern about the absence of an explicit penal provision in the State party's legislation prohibiting organizations and propaganda activities that advocate racial hatred, as required by article 4 (b) of the Convention. The Committee recommends that the State party revise its Penal Code in order to implement fully the provisions of article 4.

275. The Committee notes the insufficiency of information on the participation of minorities in the economic and social development of the country. The Committee reiterates its request for disaggregated data on access to health care, housing and employment by persons belonging to ethnic and national minorities.

276. The Committee is concerned by reports of the difficult human rights situation of the Batwa people, particularly in relation to the enjoyment of their rights over lands traditionally occupied by them, and requests information on their situation in accordance with general recommendation XXIII.

277. The Committee expresses concern about allegations of abuses committed by Ugandan forces against members of particular ethnic groups in the Democratic Republic of the Congo. The Committee urges the State party to comply fully with Security Council resolutions 1304 (2000) and 1332 (2000).

278. While noting the efforts made by the State party to resume the dialogue with rebels of the Lord's Resistance Army in the north of the country, the Committee remains concerned about reports of grave acts of violence against tribes in the Gulu and Kitgum districts committed in the

course of internal strife. The Committee invites the State party to continue its efforts to restore peace in the region and to protect vulnerable groups from human rights violations, notably tribal groups and children.

279. The Committee encourages the State party to provide support to the Ugandan Human Rights Commission and to take into consideration the recommendations that the Commission submits to Parliament. The Committee requests that in its next periodic report, the State party provide additional information on the specific activities and achievements of the Commission, particularly with regard to the implementation of the Convention.

280. While acknowledging the efforts that the Government has made to combat HIV/AIDS, the Committee is concerned about the rapid spread of this disease which affects the population throughout the country, particularly marginalized ethnic groups. The Committee recommends that the State party continue to develop strategies in this regard and that, in this context, due consideration be given to the specific situation of women.

281. The Committee notes that the State party has not made the declaration provided for in article 14 of the Convention, and urges the State party to consider the possibility of doing so.

282. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meetings of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111. In this connection, the Committee refers to General Assembly resolution 57/194 of 18 December 2002 in which the Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

283. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on action plans or other measures taken to implement the Durban Declaration and Programme of Action at the national level.

284. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the observations of the Committee on these reports be similarly publicized.

285. The Committee encourages the State party to consult with organizations of civil society working to combat racial discrimination during the preparation of the next periodic report.

286. The Committee recommends that the State party submit its eleventh periodic report jointly with its twelfth and thirteenth periodic reports, due on 21 December 2005, and that it address all points raised in the present concluding observations.

PAPUA NEW GUINEA

287. At its 1561st meeting, on 7 March 2003 (CERD/C/SR.1561), the Committee reviewed the implementation of the Convention by Papua New Guinea and adopted the following decision on 14 March, at its 1571st meeting (CERD/C/SR.1571).

288. Despite the Committee's repeated requests, Papua New Guinea has not fulfilled its obligations under article 9, paragraph 1, of the Convention. It has submitted neither its periodic report nor the additional information requested concerning the situation in Bougainville. No dialogue between Papua New Guinea and the Committee has taken place since 1984.

289. The Committee reiterates its decisions 8 (46) of 16 March 1995, 3 (47) of 16 August 1995, 4 (51) of 21 August 1997, 2 (52) of 19 March 1998, and 1 (60) of 21 May 2002 on Papua New Guinea, in which it requested the State party to comply with the reporting obligations under the Convention and to provide information, primarily on the situation in Bougainville.

290. The Committee reiterates its requests to the State party to provide information, in particular, on the demographic composition of the population and on the implementation of economic, social and cultural rights of the various ethnic groups, and incidents of racial discrimination.

291. The Committee recommends that the State party consider withdrawing its reservation to article 4 of the Convention.

292. The Committee draws the attention of the State party to the provisions of the Declaration and Programme of Action of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, according to which the International Convention on the Elimination of All Forms of Racial Discrimination is the principal international instrument for the elimination of racism, racial discrimination, xenophobia and related intolerance, and urging States to cooperate with the Committee in order to promote the effective implementation of the Convention.

293. The Committee wishes to make a strong appeal to the authorities of Papua New Guinea to resume the dialogue with the Committee, and to that end submit a report in accordance with article 9 of the Convention. In that connection, once again, the Committee wishes to draw the State party's attention to the possibility of availing itself of the technical assistance offered under the advisory services and technical assistance programme of the Office of the United Nations High Commissioner for Human Rights.

294. The Committee decides that, in the absence of any indication on the part of the State party that it will comply with its obligation under article 9, paragraph 1, of the Convention, it will consider the implementation of the Convention in Papua New Guinea at its sixty-fourth session, in March 2004.

ALBANIA

295. The Committee considered the initial to fourth periodic reports of Albania, due in 1995, 1997, 1999 and 2001, respectively, submitted as a single document (CERD/C/397/Add.1), at its 1584th and 1585th meetings (CERD/C/SR.1584 and 1585), held on 4 and 5 August 2003. At its 1607th and 1608th meetings (CERD/C/SR.1607 and 1608), on 20 August 2003, it adopted the following concluding observations.

A. Introduction

296. The Committee welcomes with satisfaction the initial report of the State party and notes with gratification the meaningful dialogue that has been launched with Albania and the replies provided orally by its delegation. It nevertheless notes that the report, the overall presentation of which is in keeping with the Committee's general guidelines, does not contain sufficient information on the practical implementation of the Convention.

297. Noting that the initial report was submitted eight years after the ratification of the Convention, the Committee invites the State party to take due account, in the submission of its future reports, of the timetable provided for by the Convention.

B. Positive aspects

298. The Committee notes with great satisfaction that, in the past 10 years, Albania has made considerable progress in establishing the rule of law. It welcomes the ratification by Albania of many international and European human rights instruments.

299. The Committee notes with satisfaction the establishment of several institutions with competence in the field of combating racial discrimination and protecting minorities, such as the People's Advocate, the Office for Minorities within the Ministry for Foreign Affairs and the Division for National Minorities in the Department of Prefectures in the Ministry of Local Government.

300. The Committee commends the action taken by the Albanian authorities against organized crime and corruption, which are particularly harmful to the most vulnerable social groups.

301. The Committee welcomes with satisfaction the measures adopted to protect religious freedom and the considerable efforts made to promote the education and cultural rights of persons belonging to national minorities. It particularly commends the adoption of article 20 of the Constitution on education in the mother tongue.

302. The Committee welcomes the draft national strategy for the improvement of the living conditions of the Roma.

303. The Committee welcomes the decision by the Albanian authorities to improve the legislative framework for traditional street names and other indications for the public in minority languages.

304. The Committee commends the Albanian authorities' decision to invite non-governmental organizations to help prepare reports to be submitted to the United Nations human rights treaty bodies within an inter-ministerial group coordinated by the Ministry for Foreign Affairs.

305. The Committee notes with satisfaction that the Ministry for Foreign Affairs is considering the possibility of making the declaration provided for in article 14 of the Convention.

C. Concerns and recommendations

306. The Committee notes that the last census showing the ethnic composition of the population dates back to 1989 and that the census conducted in 2001 did not update this information. There are no recent statistics on minorities generally, and none at all on the Roma minority in particular.

> Recalling that such information is necessary for the monitoring of policies in favour of minorities and for an assessment of the implementation of the Convention, the Committee recommends that the State party collect precise statistical data on persons belonging to minorities in Albania. In this connection, the Committee recalls that, according to its general recommendation VIII, such identification must, in principle, be based on self-identification by the individual concerned.

307. The Committee notes that the State party has a tendency not to regard the particularly unfavourable situation in which certain minority groups in Albania live as one involving racial or ethnic discrimination, believing that the social and economic problems encountered by persons belonging to these minorities are the same as those with which the rest of the population has to deal.

> The Committee recommends that the State party reconsider that approach and carry out analyses to determine whether and to what extent the unfavourable situation of some minorities is the result of racial or ethnic discrimination.

308. The Committee takes note of the distinction made by the State party in internal law between national minorities (Greek, Macedonian-Slav and Montenegrin) and linguistic minorities (Roma and Aromanian or Vlach). It notes the statement by the State party that this distinction has no effect on the rights enjoyed by persons belonging to such minorities. It nevertheless points out that article 20 of the Constitution does not expressly grant rights only to national minorities and that the members of linguistic minorities do not, in practice, enjoy the same cultural rights. Furthermore, persons belonging to the Roma and Aromanian minorities are reportedly not satisfied that their communities are classified as linguistic minorities alone, since the main components of their identity go beyond the question of language.

> The Committee recommends that the State party reconsider the criteria on the basis of which the distinction between national minorities and linguistic minorities is based, in consultation with the groups concerned, and ensure that persons belonging to these communities enjoy the same rights, especially in the cultural field.

309. The Committee notes the existence of a community which describes itself as "Egyptian" but is not recognized as a minority on the grounds that, according to the State party, it is fully integrated into the Albanian population.

> Additional information about this community should be provided by the State party in its next report.

310. The Committee takes note of the State party's explanations that "minority areas" no longer exist in Albania, as the persons belonging to minorities have the same rights, whatever their geographical location. The periodic report nevertheless refers primarily to measures

adopted to implement cultural rights in districts where the Greek and Macedonian-Slav minorities are traditionally concentrated. These minorities complain about the lack of mother-tongue education system outside these regions and about the refusal by the Albanian authorities to respond to their requests for such education.

> The Committee understands that the exercise of the right to study and to be taught in the mother tongue means that a specific number of members of a minority must be present in a particular geographical area. It also recognizes the efforts being made by the State party to ensure that mother-tongue classes and schools are maintained, despite the drop in the number of students. It nevertheless recommends that the State party ensure that the rights of members of minorities are not unduly restricted outside areas where these minorities are concentrated. It requests information on this question to be included in the next periodic report, with regard to all minorities.

311. The Committee notes that, although efforts have been made to implement article 4 of the Convention, Albanian legislation still does not meet all the requirements of that provision.

> The Committee recommends that the State party, declare as offences punishable by law any assistance to racist activities and the financing thereof, participation in racist organizations, acts of racial violence and incitement to such acts, and any refusal to provide goods or services on racist grounds. It also suggests that an aggravating circumstance of racism should be introduced in the Penal Code so that any offence based on racist grounds can be punished more severely.

312. The Committee is concerned about information that members of the Roma minority, especially the young, are generally regarded with suspicion and subjected to ill-treatment and the improper use of force by police officers.

> The Committee recommends that the State party take measures to halt such practices and to increase law enforcement officials' sensitivity to and training in matters involving racial discrimination.

313. The Committee notes that the information submitted by the State party on participation in political life and access to the public service by persons belonging to minorities is insufficient.

> The Committee recommends that an analysis should be made of the participation of members of minorities in government service and political institutions in the State party.

314. The Committee points out that the State party has not provided adequate information about the gender-related dimensions of racial discrimination.

> The Committee draws the attention of the State party to its general recommendation XXV on gender-related dimensions of racial discrimination and recommends that it assess the extent of and prevent racial discrimination against women in general. It requests information on this question in the next periodic report.

315. The Committee is concerned about information relating to discrimination against the Roma in respect of access to education, health, hygiene, housing, employment, and sufficient and adequate food and water.

The Committee recommends that the State party intensify its efforts on behalf of the Roma minority, in accordance with general recommendation XXVII. Special efforts should be made, in consultation with the communities concerned, to integrate Roma children into the Albanian educational system, while allowing for the possibility of bilingual or mother-tongue instruction and respecting the communities' cultural identity and way of life. Information on the results achieved by the national strategy on behalf of the Roma should be communicated in the next periodic report.

316. The Committee is concerned about the difficulties encountered by certain national minorities, in particular, the Greek and Aromanian minorities, in recovering and obtaining compensation for their religious properties.

The Committee encourages the State party to ensure the swift entry into force of the bill on property restitution and compensation, so as to settle this issue once and for all.

317. The Committee notes that persons belonging to minorities in Albania have very little access to radio and television in minority languages.

The Committee welcomes the Albanian authorities' decision to take measures to increase broadcast time in minority languages on public radio and television and urges the State party to ensure that these measures are intended for all minorities, in particular, the Montenegrin, Roma and Aromanian minorities. It also suggests that the State party facilitate broadcasting designed especially for minorities, including the Greek minority.

318. The Committee is concerned at reports of the problems encountered by Roma and members of the community who call themselves Egyptians in having access to places and services intended for public use.

The Committee invites the State party to adopt appropriate measures to guarantee that access to all places and services intended for public use is not denied to anyone on the grounds of race, colour, ancestry, or national or ethnic origin.

319. The Committee regrets the lack of information provided by the State party on the possible impact on the application of the Convention of the changes made to its domestic legislation to combat terrorism.

The Committee invites the State party, in its next periodic report, to provide information on its law and practice in this regard, particularly on identity, entry and residence checks of foreigners, the right of asylum and extradition.

320. The Committee notes that very few complaints of racial discrimination have been dealt with by the People's Advocate and that no court decision has been issued on any complaint.

The Committee recommends that the State party verify that the lack of any such complaints is not the result of victims' lack of awareness of their rights, individuals' lack of confidence in the police and judicial authorities, or the authorities' lack of attention or sensitivity to cases of racial discrimination. The next periodic report should contain statistics on complaints, prosecutions and judgements relating to acts of racial or ethnic discrimination, and examples of actual cases illustrating these statistical data.

321. The Committee recommends that additional information should be transmitted to it on:

(a) The activities of the People's Advocate, the Office for National Minorities in the Ministry for Foreign Affairs and the Division for National Minorities in the Department of Prefectures in the Ministry of Local Government:

(b) The measures adopted by the State party to implement article 7 of the Convention. In particular, the next periodic report should include information on human rights education and training to promote understanding among racial and ethnic groups and for teachers and pupils, law enforcement officials, members of political parties and media professionals.

322. The Committee recommends that, in giving effect in its internal legal system to the provisions of the Convention, particularly those of articles 2-7, the State party should take account of the relevant parts of the Durban Declaration and Programme of Action and include information in its next periodic report on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

323. The Committee recommends that the State party ratify the amendment to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111 of 15 December 1992. In this connection, the Committee draws the State party's attention to General Assembly resolution 57/194 of 18 December 2002, in which the Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

324. The Committee takes note of the procedure set in motion with a view to the formulation of the optional declaration provided for in article 14 of the Convention and encourages the State party to complete this process.

325. The Committee urges the State party to improve the dissemination of the Convention, of its periodic reports as soon as they are submitted to the Committee and of these concluding observations, particularly by strengthening cooperation with non-governmental organizations, civil society and the print media.

326. The Committee recommends that the State party submit its fifth, sixth and seventh periodic reports by 10 June 2007 in a single document updating the initial report and dealing with all the questions raised in these concluding observations.

BOLIVIA

327. The Committee considered the fourteenth to sixteenth periodic reports of Bolivia (CERD/C/409/Add.3), which were due from 1997 to 2001, submitted as one document, at its 1594th and 1595th meetings (CERD/C/SR.1594 and 1595), held on 11 and 12 August 2003. At its 1610th meeting (CERD/C/SR.1610), held on 21 August 2003, it adopted the following concluding observations.

A. Introduction

328. The Committee welcomes the report submitted by the State party and the additional oral and written information provided by the delegation. It regrets, however, that this new additional written information was submitted late, and members were unable to examine it before the dialogue with the delegation.

329. The Committee expresses appreciation for the helpful responses provided by the delegation of the State party and for its willingness to engage in a constructive dialogue with the Committee. Furthermore, the Committee welcomes the fact that the State party's delegation was headed by the Vice-Minister of Indigenous Affairs.

B. Factors and difficulties impeding implementation of the Convention

330. The Committee notes that, despite the State party's considerable progress and outstanding efforts, Bolivia remains one of the poorest and least developed countries in Latin America. According to the poverty indicators of 2002, 64.3 per cent of the population lives below the poverty line (53.3 per cent of the population of the urban areas and 82.1 per cent of the population of rural areas). The Committee is particularly concerned about this data and underlines that the discrepancy between urban and rural areas especially affects indigenous peoples and their daily living conditions.

C. Positive aspects

331. The Committee acknowledges that the extensive and detailed report of the State party is, in general, in conformity with the reporting guidelines and that it addresses some of the concerns and recommendations formulated by the Committee after the consideration of the previous report.

332. The Committee notes with satisfaction that Bolivia is a party to a range of international human rights instruments, including International Labour Organization, Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

333. The Committee welcomes the numerous measures undertaken for the promotion and protection of human rights, including the recognition in the new Constitution of 1995 of Bolivia as a multi-ethnic and multicultural State, the recent establishment of the post of Ombudsman (Defensor del Pueblo), the entry into force in 1999 of the new Penal Procedure Code and the approval of the gender equality plan 2003-2007. The Committee also notes with appreciation the establishment in each municipality of an Ombudsman for Children and Adolescents.

334. As to article 2 of the Convention, the Committee takes note with satisfaction of the information that local offices attached to the Ministry of Justice and Human Rights have been opened to receive complaints of human rights violations.

335. The Committee commends the State party's efforts aimed at ensuring that members of the indigenous peoples - which, according to the 2001 census, represent 61.8 per cent of the whole population - are free and equal in dignity and rights and free from any discrimination,

including legal provisions aimed at recognizing the title to and ownership of land of indigenous groups and individuals as well as the right to exclusive benefit of renewable natural resources situated on their lands. In this respect, the Committee especially welcomes the establishment of the Agrarian Court.

336. While the Committee is seriously concerned about the information that a "neo-Nazi" meeting was scheduled to take place in April 2001, as well as about the existence of such a phenomenon in the country, it welcomes the measures taken by the State party which managed to prevent this gathering taking place, in conformity with article 4 (b) of the Convention.

337. The Committee also takes note with appreciation of the steps taken to give adequate recognition to indigenous languages.

D. Concerns and recommendations

338. The Committee regrets the paucity of information as to article 4 of the Convention and notes with concern the lack of legislative provisions punishing the dissemination of ideas based on racial superiority or hatred, as well as acts of violence or incitement to violence and the organizations promoting racial discrimination, as required under article 4 of the Convention.

> In this regard, the Committee reiterates its previous recommendation urging the State party to fulfil its obligation to make all forms of racial discrimination, as specified in article 4 of the Convention, punishable by law.

339. While welcoming the State party's efforts aimed at ensuring the enjoyment and exercise of the rights of indigenous peoples through the adoption of constitutional, legal and institutional reforms, the Committee notes with concern the information received on the issue of indigenous lands allegedly allotted to private companies, especially in the communities of Chiquitano, Beni and Santa Cruz.

> The Committee invites the State party to implement consistently in practice the commendable legislation it adopted in order to recognize the fundamental rights of indigenous peoples and to improve their living conditions. In this regard, the Committee draws the attention of the State party to its general recommendation XXIII which, inter alia, calls upon States parties to recognize and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources and, where they have been deprived of their lands and territories traditionally owned or otherwise inhabited or used without their free and informed consent, to take steps to return those lands and territories.

340. The Committee is also concerned about reports that human rights defenders providing assistance to members of indigenous groups in the context of land disputes continue to be threatened and harassed by police officers, especially in the region of Chapare.

> The Committee recommends that the State party take all necessary measures for the protection of human rights defenders against any violence, threats, retaliation, de facto discrimination, pressure or any arbitrary action as a consequence of their activities. In

this regard, the Committee recalls its general recommendation XIII on the training of law enforcement officials in the protection of human rights and encourages the State party to improve the training of law enforcement officials, especially police officers, so that the standards of the Convention are fully implemented.

341. The Committee notes the lack of information regarding the Afro-Bolivian community which, according to the information received, accounts for around 31,000 individuals situated at the lower end of the socio-economic scale and who face severe disadvantages in health, life expectancy, education, income, literacy, employment and housing. The Committee further notes that there are no specific provisions making reference to this group in the domestic legislation.

The Committee recommends that the State party adopt measures with a view to ensuring to members of the Afro-Bolivian community the full enjoyment of the rights enumerated in article 5 of the Convention and that it provide information in this respect in its next periodic report, in particular on their standard of living and other educational and social indices.

342. While understanding the need for policies aimed at reducing the illegal production and trafficking of coca, the Committee is concerned about the possible negative consequences of these policies, particularly for members of the indigenous communities.

In this regard, the Committee recommends that the State party provide in its next periodic report additional and more specific information on the amount of land withdrawn from coca production, the alternative ways of cultivating or utilizing this land, the amount of land continuing to produce coca, the numbers of persons affected and the ethnic origin of those persons, as well as the impact of the State party's policies on their living standards.

343. The Committee notes the lack of information on the legislative, judicial, administrative or other measures which give effect to the provision of article 6 of the Convention. The Committee reminds the State party that the mere absence of complaints and legal action by victims of racial discrimination may be mainly an indication of the absence of relevant specific legislation, or of a lack of awareness of the availability of legal remedies, or of insufficient will on the part of the authorities to prosecute.

The Committee requests the State party to ensure that appropriate provisions are available in national legislation and to provide the public with adequate information about all legal remedies in the field of racial discrimination. The Committee further requests that the State party include in its next periodic report statistical information on prosecutions launched, and penalties imposed in cases of offences which relate to racial discrimination and where the relevant provisions of the existing domestic legislation have been applied.

344. Regarding article 7 of the Convention, the Committee encourages the State party to make additional efforts to disseminate the Convention and other international human rights instruments in the main languages.

345. The Committee encourages the State party to consult with organizations of civil society working in the area of combating racial discrimination during the preparation of the next periodic report.

346. The Committee notes that the State party has not made the optional declaration provided for in article 14 of the Convention and urges that it consider doing so.

347. The Committee strongly recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meetings of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111. In this connection, the Committee refers to General Assembly resolution 57/194 of 18 December 2002, in which the Assembly strongly urged State parties to accelerate their domestic ratification procedures with regard to the amendment and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

348. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on action plans or other measures taken to implement the Durban Declaration and Programme of Action at national level.

349. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the observations of the Committee on these reports be similarly publicized.

350. The Committee recommends that the State party submit its seventeenth periodic report jointly with its eighteenth periodic report, due on 21 October 2005, and that it address all points raised in the present concluding observations.

CAPE VERDE

351. The Committee considered the third to twelfth periodic reports of Cape Verde, submitted in a single document (CERD/C/426/Add.1), at its 1586th and 1587th meetings (CERD/C/SR.1586 and 1587) held on 5 and 6 August 2003. At its 1602nd meeting (CERD/C/SR.1602), held on 15 August 2003, it adopted the following concluding observations.

A. Introduction

352. The Committee welcomes the third to twelfth periodic reports as well as the additional information provided by the State party's delegation during its oral presentation, and expresses its appreciation for the opportunity to resume its dialogue with the State party after a lapse of 20 years. It notes that during this period, Cape Verde's political situation evolved in such a way that it is now a fully working multiparty democracy, dedicated to upholding the rule of law and human rights. The Committee hopes that the State party will hereafter ensure the timely submission of its periodic reports, as required by article 9 of the Convention.

353. The Committee expresses its appreciation for the report and the frank and constructive responses to the questions raised, even though the report does not conform fully to the Committee's reporting guidelines. In this connection, the Committee suggests that the Government of Cape Verde avail itself of the technical assistance offered under the advisory services and technical assistance programme of the Office of the High Commissioner for Human Rights, with the aim of preparing and submitting its next periodic report in accordance with the reporting guidelines.

354. While generally rejecting affirmations of homogeneity, the Committee understands the State party's assertion that its population is homogeneous to mean that, having no autochthonous people, the Cape Verdeans are the product of an intermingling of people from many nations and regions.

B. Factors and difficulties impeding implementation of the Convention

355. The Committee takes note that Cape Verde is a developing country that became independent rather recently and suffers from a poor natural resource base, including serious water shortages exacerbated by cycles of long-term drought. The Committee also notes the State party's geographic spread over several islands which, combined with other difficulties, poses problems in the provision of services.

C. Positive aspects

356. The Committee notes with appreciation the commitment to human rights manifested by Cape Verde through the ratification of a large number of international instruments as well as the establishment of relevant institutions and the implementation of pertinent programmes in the field of human rights. The Committee also welcomes the fact that the international human rights instruments ratified by Cape Verde are directly applicable before the domestic courts.

357. The Committee welcomes the creation of the National Human Rights Committee (NHRC) in 2001, entrusted with the promotion and dissemination of human rights and international humanitarian law awareness, and commends its elaboration of the "Cape Verdean Plan of Action for Human Rights and Citizenship", the text of which will be conveyed to the Committee as soon as it is translated. The Committee invites the State party to provide additional information on the degree of independence of NHRC, its funding, methods of work, activities and further achievements.

358. Likewise, the Committee commends the establishment of the office of the Ombudsman (Provedor da Justiça) and the adoption of a new Penal Code. The Committee notes, however, that the new Penal Code will only enter into force in 2004 and that the Ombudsman has not yet been appointed owing to financial constraints.

359. The Committee welcomes the information provided on the project aiming at the introduction of human rights education as part of the school curriculum, in conformity with article 7 of the Convention.

360. The Committee notes with appreciation the steps taken to give adequate recognition to the Creole language, without prejudice to the use of Portuguese as the main official language in the country.

361. The Committee welcomes the establishment of a joint committee by the Ministry of Justice and the Interior and the Ministry of Foreign Affairs, Cooperation and Communities to address problems encountered by immigrants in Cape Verde.

D. Concerns and recommendations

362. With respect to article 4 (a) of the Convention, the Committee is concerned about the lack of legal provisions to implement the State party's obligations, notably the absence of legislative measures punishing acts of racial discrimination and violence.

> Noting the oral information provided by the delegation that a new Penal Code containing provisions on this issue will enter into force at the beginning of 2004, the Committee recommends that the State party fully comply with the obligations under article 4 (a) and invites the State party to provide additional and more specific information on this subject in its next report.

363. The Committee notes with concern that immigrants from the Economic Community of Western African States (ECOWAS) are often referred to as "Mandjaco", a term which may have negative connotations. It also notes instances of discrimination against members of communities coming from ECOWAS countries on account of the involvement of some of them in antisocial practices such as drug-trafficking and prostitution.

> The Committee recommends that the State party take appropriate measures to combat stereotyping of certain groups of immigrants and that it provide additional information in its next periodic report on the steps taken in this regard.

364. The Committee is concerned about the occurrence of trafficking in persons, affecting in particular foreigners and people of different race or ethnic origin, in the State party which, according to the information received, is used as a transit point by smugglers.

> The Committee recommends that the State party monitor closely the phenomenon of trafficking in persons and provide additional and more specific information on the relevant provisions contained in the new Penal Code and their implementation.

365. While the Committee welcomes the efforts made by the State party to ensure the implementation of the Convention with respect to women and the existence of civil society organizations working in the field of promotion and protection of women's rights, it is concerned about the stereotyping of women in particular those of foreign origin in Cape Verde, as well as the insufficient representation of women at high political level in the labour market and in cultural affairs.

> The Committee recommends that the State party take all appropriate measures to guarantee the equal enjoyment by women, free from racial discrimination, of the rights under the Convention and draws the attention of the State party to its general recommendation XXV on gender-related dimensions of racial discrimination.

366. The Committee notes the lack of information on the legislative, judicial, administrative or other measures which give effect to the provisions of article 6 of the Convention and recommends that the State party include in its next periodic report statistical information on prosecutions launched and penalties imposed in cases of offences which relate to racial discrimination. The Committee further requests the State party to ensure that appropriate provisions are available in national legislation and to inform the public about all legal remedies in the field of racial discrimination.

367. The Committee notes that the State party has not yet made the optional declaration provided for in article 14 of the Convention, and hopes that the assurance given by the delegation of Cape Verde that it will do so as soon as possible will be promptly implemented.

368. The Committee strongly recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meetings of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111. In this connection, the Committee refers to General Assembly resolution 57/194 of 18 December 2002, in which the Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

369. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on action plans or other measures taken to implement the Durban Declaration and Programme of Action at national level.

370. The Committee encourages the State party to consult with organizations of civil society working in the area of combating racial discrimination during the preparation of the next periodic reports.

371. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the observations of the Committee on these reports be similarly publicized.

372. The Committee recommends that the State party submit its thirteenth periodic report jointly with its fourteenth periodic report, due on 2 November 2006, as an updated report and that it address all points raised in the present concluding observations.

CZECH REPUBLIC

373. The Committee considered the fifth periodic report of the Czech Republic (CERD/C/419/Add.1), which was due on 1 January 2002, at its 1590th, 1591st and 1592nd meetings (CERD/C/SR.1590-1592), held on 7 and 8 August 2003. At its 1603rd meeting (CERD/C/SR.1603), held on 18 August 2003, it adopted the following concluding observations.

A. Introduction

374. The Committee welcomes the self-critical report submitted by the State party in a timely fashion, the extensive supplementary oral information provided by the delegation and the constructive responses provided to the questions asked.

B. Positive aspects

375. The Committee welcomes the declaration made by the State party under article 14 of the Convention and the acceptance, on 6 August 2002, of the amendment to article 8, paragraph 6, of the Convention.

376. The Committee notes the amendment to article 10 of the Constitution according to which all international treaties promulgated and ratified by the Czech Republic are directly binding and have precedence over domestic law.

377. The Committee is encouraged by the legislative efforts of the State party to give effect to the provisions of the Convention, in particular in the field of protection of national minorities, as well as the amendment to the Criminal Code adopted in 2002 and the amendments to the Civil Procedure Code reversing the burden of proof from the victim to the alleged offender.

378. Furthermore, the Committee welcomes the existence of a number of advisory bodies of the Government dealing with human rights and specifically the rights of national minorities, which work in cooperation with civil society. It notes in particular the Council of the Government of the Czech Republic for the Affairs of the Roma Community, the Human Rights Council of the Government of the Czech Republic and the Government Council for National Minorities.

379. The Committee greatly appreciates the concrete measures, programmes and strategies adopted by the State party with a view to improving the situation of the Roma and other marginalized groups, including refugees.

C. Concerns and recommendations

380. While noting the efforts of the Government to elaborate a comprehensive anti-discrimination law, the Committee is concerned about the difficulties faced during this process.

> The Committee encourages the State party to complete its efforts with regard to the comprehensive anti-discrimination law promptly and subsequently to ensure its effective enforcement. It urges the State party to incorporate in the new law the definition of discrimination as stipulated in article 1 (1) of the Convention.

381. While noting the efforts undertaken by the State party to counter racially motivated violence and discrimination, the Committee remains concerned at the continuance of acts of racially motivated violence and incitement to hatred and the persistence of intolerance and de facto discrimination, in particular with regard to the Roma minority.

> The Committee recommends that the Government pursue and intensify its efforts to achieve more effective application of existing legislation.

382. Furthermore, the Committee notes that the State party has only declared punishable *active* participation in organizations promoting and inciting racial discrimination.

> The Committee urges the State party to consider reviewing this provision and to declare punishable *any* participation in organizations that promote and incite racial discrimination, in accordance with article 4 (b) of the Convention.

383. The Committee is concerned about allegations of racially motivated ill-treatment, ineffective protection and discrimination against the Roma by law enforcement officials, especially the police. Furthermore, it has been suggested that allegations of abuse by law

enforcement officials are not always promptly and impartially investigated. While noting the many initiatives taken in the field of training and education of the police, the Committee stresses that prompt and impartial investigations are paramount in countering discriminatory attitudes and practices.

> The Committee recommends that the State party intensify its efforts to end such discriminatory practices. It further recommends that the procedure relating to the investigation of complaints with respect to the work of the police be conducted and overseen by a body independent of the police and the Ministry of the Interior. The Committee requests the State party to include in its next periodic report statistical information on the number and nature of complaints of racial discrimination received, prosecutions launched and penalties imposed.

384. The Committee notes the efforts under way to facilitate access to the labour market by individuals experiencing difficulties in finding employment, including the Roma, asylum applicants and other marginalized groups. However, the unemployment rate among the Roma remains disproportionately high and continues to be an issue of concern for the Committee. This concern is compounded by the information relating to the practice of usury and its negative economic and social consequences for the Roma.

> The Committee urges the State party to continue and intensify poverty reduction and employment programmes for the Roma, and also to consider establishing a functional loan system for socially weak sections of the population, including the Roma, as an alternative to usury. In this respect, the Committee encourages the State party to take due account of the situation of Roma women, in accordance with its general recommendation XXVII.

385. The Committee welcomes the information on the housing projects for Roma which the State party has implemented and notes the significant efforts invested in seeking optimal solutions to improve their deteriorating housing conditions. While the Committee notes that, in the short term, construction of housing units that are occupied predominantly by Roma may be successful, it is concerned that, in the long term, such solutions may perpetuate segregation. The Committee is further concerned by the evictions from flats or threats to evict reportedly faced by many Roma families.

> The Committee encourages the State party to continue its activities in the area of research relating to the problem of housing and to seek solutions that promote the social integration of the Roma. With respect to evictions, the Committee recommends that the State party devise measures to prevent evictions or mitigate their negative effects, in particular on the most vulnerable groups.

386. While appreciating the complexity of the problem of special schooling and noting the accompanying measures taken by the Government with a view to promoting adequate support to Roma children, the Committee remains concerned, as does the Committee on the Rights of the Child (see CRC/C/15/Add.201, para. 54), at the continued placement of a disproportionately high number of Roma children in "special schools".

> Recalling its general recommendation XXVII, the Committee urges the Government to continue and intensify the efforts to improve the educational situation of the Roma through, inter alia, enrolment in mainstream schools, recruitment of school personnel from among members of Roma communities, and sensitization of teachers and other education professionals to the social fabric and world views of Roma children and those with apparent learning difficulties.

387. The Committee is encouraged by the preparation of the new Act on Legal Aid, which will facilitate access to justice of victims of discrimination. However, it is concerned at continued reports that judges in criminal proceedings are reluctant to issue findings that crimes are racially motivated. The Committee also regrets the lack of information on specific cases of victims of discrimination having obtained adequate reparation.

> The Committee encourages the State party to establish promptly a legal aid system for alleged victims of racism. It requests the State party to include in its next periodic report information on the number of persons who have benefited from legal aid and information on cases of victims who have obtained adequate reparation.

388. The Committee welcomes the anti-racism campaigns conducted annually and the broad population targeted by them, and notes the numerous other initiatives of the State party to combat discriminatory attitudes and practices. Unfortunately, that negative attitudes towards minorities and refugees persist among public officials, in the media and among the general public, is a matter of concern to the Committee. Furthermore, the Committee is concerned that the judiciary, unlike the police, does not seem to be the object of sensitization and educational activities.

> The Committee recommends that the State party continue and intensify its anti-racism campaigns and other efforts aimed at combating racial and ethnic stereotyping. It recommends that the State party, while pursuing public education campaigns, continue and diversify targeted training programmes for professionals, such as the police, judges and other public officials working with the Roma and other vulnerable groups.

389. The Committee encourages the State party to consult with organizations of civil society working in the area of combating racial discrimination during the preparation of the next periodic report.

390. The Committee recommends that the State party disseminate widely information on the domestic remedies available against acts of racial discrimination, on the legal avenues for obtaining compensation in cases of discrimination and on the individual complaint procedure under article 14 of the Convention.

391. The Committee welcomes information on the preparation of a draft National Plan of Action on Combating Racism in the Czech Republic. It looks forward to its presentation at the Regional Seminar of Experts for Eastern Europe on the Implementation of the Programme of Action Adopted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, to be hosted by the Czech Republic in September 2003. The Committee invites the State party to include in its next periodic report information on the National Plan of Action and any other measures taken to implement the Durban Declaration and Programme of Action at the national level.

392. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the observations of the Committee on these reports be similarly publicized.

393. The Committee recommends that the State party submit its sixth periodic report jointly with its seventh periodic report, due on 1 January 2006, and that it address all points raised in the present concluding observations.

FINLAND

394. The Committee considered the sixteenth periodic report of Finland (CERD/C/409/Add.2), which was due in 2001, at its 1600th and 1601st meetings (CERD/C/SR.1600 and 1601), held on 14 and 15 August 2003. At its 1611th meeting (CERD/C/SR.1611), held on 22 August 2003, it adopted the following concluding observations.

A. Introduction

395. The Committee welcomes the report, which was submitted by the State party on time, and the additional oral information provided by the delegation. It expresses satisfaction at the fact that non-governmental organizations were invited to participate in the preparation of the report.

396. The Committee also welcomes the attendance of a competent delegation and expresses its appreciation for the constructive responses provided to the questions raised.

B. Positive aspects

397. The Committee acknowledges that the extensive and detailed report of the State party is in conformity with the reporting guidelines and that it addresses the concerns and recommendations formulated by the Committee after the consideration of the State party's previous report.

398. The Committee commends the State party's excellent record of ratification of international human rights instruments.

399. The Committee notes with appreciation that the State party made the optional declaration provided for in article 14 of the Convention in 1994 and has ratified the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meetings of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111.

400. The Committee welcomes the adoption, on 22 March 2001, of a Plan of Action to combat ethnic discrimination and racism aiming to support and develop measures enhancing good inter-ethnic relations and preventing ethnic discrimination and racism in Finnish society. In this connection, the Committee also welcomes the appointment, on 1 September 2001, within the framework of the Plan of Action, of a Minority Ombudsman.

401. The Committee also welcomes the programmes and institutions put in place as well as the research and studies undertaken by the State party for the promotion and protection of human rights, in particular those regarding minorities, in conformity with paragraphs 92 to 98 of the Durban Programme of Action.

402. The Committee welcomes the approval in January 2003 of a government bill revising the Penal Code and including "racist motives" as aggravating circumstances of a crime. It also notes with satisfaction the introduction of a provision punishing participation in organizations which promote or incite racial discrimination.

403. The Committee equally notes with satisfaction that the Ministry of Labour is preparing a government bill whereby two important directives of the European Community, Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin and Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation, will be implemented.

C. Concerns and recommendations

404. The Committee is of the opinion that the State party's approach to the definition of who may be considered a Sami and thus fall under the relevant legislation established in favour of the Sami, as illustrated by the Act on the Sami Parliament and the specific interpretation placed thereon by the Supreme Administrative Court, is too restrictive.

> The Committee considers that by relying mainly, if not exclusively, on the criteria of the language spoken and the taxes levied on a person's ancestors, the State party is not taking into account to a sufficient degree the criterion of self-identification. Accordingly, the Committee suggests that the State party give more adequate weight to self-identification by the individual, as indicated in general recommendation VIII.

405. While the Committee notes the continuous efforts undertaken by the State party to solve the issue of Sami land rights, it regrets that the problem has not yet been resolved and that Finland has so far not adhered to International Labour Organization Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries. The Committee draws the State party's attention to general recommendation XXIII on the rights of indigenous peoples which, inter alia, calls upon States parties to recognize and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources.

> In this regard, the Committee refers to its previous concluding observations and again urges the State party to find an adequate settlement of the land dispute together with the Sami people, and recommends that it adhere to ILO Convention No. 169 as soon as possible. Furthermore, the Committee requests that the State party provide additional information on this issue in its next periodic report.

406. The Committee is concerned about the significant number of allegations which have been brought to its attention reflecting the existence of racist and xenophobic attitudes among some sectors of the population, notably among the young.

> The Committee encourages the State party to continue to monitor all tendencies which may give rise to racist and xenophobic behaviour and to combat the negative consequences of such tendencies. The Committee further recommends that the State party continue to promote at all levels of education general awareness of diversity and multiculturalism and put into practice effective measures to facilitate the integration of minority groups in Finnish society.

407. While the Committee takes note of the efforts undertaken by the State party in monitoring the spread of racist, discriminatory and xenophobic material on the Internet, it is concerned about the continued occurrence of this phenomenon.

> The Committee recalls that article 4 of the Convention is applicable to the phenomenon of racism on the Internet and that the fundamental principle of respect for human dignity requires all States to combat dissemination of racial hatred and incitement to racial hatred. It recommends that the State party take appropriate measures to combat racist propaganda on the Internet and that it provide in its next periodic report information on the development of the situation and measures taken in this field.

408. Concern is also expressed about the "accelerated procedure" provided for in the revised Aliens Act. Under the new provisions, the "accelerated procedure" applies to certain categories of asylum application and, if the application is rejected and entry is refused, could lead to the immediate expulsion of the asylum-seeker. Although such a negative decision can be appealed, it may be enforced within eight days irrespective of an appeal, which would thus have no suspensive effect. In the Committee's opinion, such narrow time limits may not allow for the proper utilization of the appeal procedure available and may result in an irreversible situation even if the decision of the administrative authorities were overturned on appeal.

> The Committee urges the State party to guarantee respect for the legal safeguards for asylum-seekers and to ensure that all its asylum procedures conform to its international obligations in this field.

409. With respect to article 5, the Committee is concerned about the difficulties faced by Roma in the fields of employment, housing and education, as well as about reported cases of discrimination in daily life such as denial of access to public places, restaurants or bars.

> The Committee draws the attention of the State party to its general recommendation XXVII on discrimination against Roma and recommends that the State party take all necessary measures with a view to promoting tolerance and overcoming prejudices and negative stereotypes in order to avoid any form of discrimination against members of the Roma community.

410. The Committee notes that one of the reasons victims of acts of racial discrimination are reluctant to file a complaint before the competent authorities is the assumption that the complaint would not lead to any result.

> The Committee recommends that the State party disseminate as widely as possible information on and raise public awareness of the domestic remedies available against acts of racial discrimination, the legal avenues for obtaining compensation in cases of discrimination and the individual complaint procedure under article 14 of the Convention.

411. The Committee encourages the State party to continue to consult with organizations of civil society working in the area of combating racial discrimination during the preparation of the next periodic report.

412. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on further action plans or other measures it has taken to implement the Durban Declaration and Programme of Action at the national level.

413. The Committee recommends that the State party continue the practice of making the reports readily available to the public from the time they are submitted and that it similarly publicize the observations of the Committee on these reports.

414. The Committee recommends that the State party submit its seventeenth, eighteenth and nineteenth periodic reports jointly in one document, due on 13 August 2007, and that it address all points raised in the present concluding observations.

ISLAMIC REPUBLIC OF IRAN

415. The Committee considered the sixteenth and seventeenth periodic reports of the Islamic Republic of Iran, which were due on 4 January 2000 and 2002 respectively, submitted in one document (CERD/C/431/Add.6), at its 1596th and 1597th meetings (CERD/C/SR.1596 and 1597), held on 12 and 13 August 2003. At its 1610th meeting (CERD/C/SR.1610), held on 21 August 2003, it adopted the following concluding observations.

A. Introduction

416. The Committee welcomes the detailed and comprehensive report submitted by the State party. The Committee is encouraged by the attendance of a high-ranking delegation and expresses its appreciation for the opportunity to continue its dialogue with the State party.

417. While the Committee notes with satisfaction that the State party's report generally conforms to the reporting guidelines of the Committee, it regrets that the report contains insufficient information on the practical implementation of the Convention.

B. Positive aspects

418. The Committee welcomes the social, economic and cultural measures taken by the State party, in accordance with article 2, paragraph 2, of the Convention, such as the new Economic, Social and Cultural Development Plan, which aims to enhance basic social and infrastructural services in less developed areas inhabited by ethnic minority groups, as well as to improve the living conditions of nomadic groups.

419. The Committee commends the State party's efforts to host a large population of refugees from neighbouring countries such as Afghanistan and Iraq.

420. The Committee takes note with satisfaction of the broad participation of people from provinces inhabited by ethnic groups in the council, presidential and parliamentary elections of 1998, 1999 and 2000, respectively.

421. The Committee welcomes the standing invitation to the thematic procedures of the Commission on Human Rights issued by the State party and the assurances given by the delegation that the trend towards reform in the State party is irreversible.

422. The Committee takes note with satisfaction that the State party has enacted the necessary legislation, in accordance with article 4 (a), to eradicate all incitement to, or acts of, racial discrimination.

C. Concerns and recommendations

423. The Committee takes note of the State party's views on the difficulties involved in determining the ethnic composition of the population and the information provided by the State party regarding the concentration of ethnic groups in different provinces of Iran.

> Nevertheless, the Committee recommends that the State party provide an estimate of the demographic composition of the population, including of the Arabs in the Alahwazi region of Khuzestan, in its next periodic report, as requested in paragraph 8 of the reporting guidelines. It also draws the attention of the State party to its general recommendation VIII concerning the self-identification of members of particular ethnic groups.

424. The Committee notes that the status of the Convention in the State party's domestic law is unclear and wishes to know whether the Convention has been endorsed by the Guardian Council. It further notes that the Convention has never been invoked in domestic courts.

> The Committee recommends that the State party provide additional and more specific information in order to clarify the legal status of the Convention in the State party's domestic order.

425. The Committee also reiterates the concern expressed in its previous concluding observations over the fact that the definition of racial discrimination contained in article 19 of the Constitution does not fully conform to article 1, paragraph 1, of the Convention.

> The Committee invites the State party to consider reviewing the definition of racial discrimination contained in its domestic law in order to bring it into full conformity with article 1, paragraph 1, of the Convention.

426. The Committee would welcome information on the effective enforcement of legislation concerning the eradication of all incitement to, or acts of, racial discrimination. The Committee notes the information furnished by the State party on the 1985 Press Act, which is referred to under article 4 of the Convention, and requests that the State party submit information in its next periodic report on the application of this law to combat racial discrimination. The Committee reiterates the concern expressed in its previous concluding observations that no reference has been made to the compliance of the State party's legislation with article 4 (b) of the Convention.

427. While the Committee notes that, according to the State party, the teaching of minority languages and literature in schools is permitted, it requests that the State party include more information in its next periodic report concerning the measures it has adopted to enable persons belonging to minorities to have adequate opportunities to learn their mother tongue and to have it used as a medium of instruction.

428. The Committee takes note with concern of the reported discrimination faced by certain minorities, including the Bahá'is, who are deprived of certain rights, and that certain provisions of the State party's legislation appear to be discriminatory on both ethnic and religious grounds.

> The Committee recommends that the State party ensure that all persons enjoy their right to freedom of thought, conscience and religion, without any discrimination based on race, colour, descent or national or ethnic origin, in accordance with article 5 (d) of the Convention. The Committee recommends that the State party permit students of different origins to register in universities without being compelled to state their religion. Furthermore, the Committee invites the State party to submit additional information on the mandate and functions of the Special National Committee for the Promotion of the Rights of Religious Minorities.

429. The Committee takes note that the Article 90 Commission of the Islamic Consultative Assembly and the Administrative Justice Tribunal have limited competence with respect to article 6 of the Convention.

> The Committee recommends that the State party consider expanding the sphere of operation of those institutions in order to ensure effective protection and remedies against all acts of racial discrimination.

430. The Committee notes the lack of information on the implementation of article 6 of the Convention.

> The Committee recommends that the State party consider whether the lack of any complaints is not the result of the victims' lack of awareness of their rights, the lack of confidence on the part of individuals in the police and judicial authorities, or the authorities' lack of attention or sensitivity to cases of racial discrimination. The Committee requests that the State party include in its next periodic report statistical information on complaints lodged, prosecutions launched and penalties imposed in cases of offences which relate to racial or ethnic discrimination, as well as examples of cases illustrating this statistical information.

431. The Committee encourages the State party to consult with organizations of civil society working in the area of combating racial discrimination during the preparation of the next periodic report.

432. The Committee notes that the State party has not made the optional declaration provided for in article 14 of the Convention and urges it to consider the possibility of doing so.

433. The Committee strongly recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meetings of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111. In this connection, the Committee refers to General Assembly resolution 57/194 of 18 December 2002, in which the Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

434. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on action plans or other measures taken to implement the Durban Declaration and Programme of Action at national level.

435. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the observations of the Committee on these reports be similarly publicized in all minority languages.

436. The Committee recommends that the State party submit a combined eighteenth and nineteenth periodic report, due on 4 January 2006, and that it address all points raised in the present concluding observations.

LATVIA

437. The Committee considered the fourth and fifth periodic reports of Latvia (CERD/C/398/Add.2), which were due on 14 May 1999 and 2001 respectively, submitted as one document, as well as the additional information provided (CERD/C/398/Add.2 (Suppl.)), at its 1598th and 1599th meetings (CERD/C/SR.1598 and 1599), held on 13 and 14 August 2003. At its 1610th meeting (CERD/C/SR.1610), held on 21 August 2003, it adopted the following concluding observations.

A. Introduction

438. The Committee welcomes the report and the supplementary information submitted by the State party as well as the additional oral and written information provided by the delegation. It expresses satisfaction at the quality of the report and the participatory drafting process. The Committee is encouraged by the attendance of a high-ranking delegation and expresses its appreciation for the candid and constructive responses provided to the questions asked.

B. Positive aspects

439. The Committee welcomes the ongoing efforts of the State party to introduce legislative reform in accordance with international standards. In particular, the Committee notes the amendment to the Law on the Constitutional Court allowing individuals to submit complaints to the Court; the new Labour Law adopted in June 2001 providing for equal rights without discrimination in purpose or effect; and the amendments to the Election Laws adopted in May 2002.

440. The Committee also welcomes the adoption of the new Law on Personal Identification Documents removing the requirement to record a person's ethnic origin, as recommended by the Committee in its previous concluding observations (CERD/C/304/Add.79, para. 24).

441. The Committee is encouraged by the efforts of the State party to support and facilitate the process of naturalization through legal measures and targeted projects.

442. The Committee welcomes the National Programme for the Integration of Society in Latvia adopted in February 2001 and the establishment in 2002 of the post of Minister for Special Assignments for Societal Integration Affairs tasked with coordinating anti-discrimination, minority and social integration policies.

443. The Committee welcomes the Supreme Court ruling of 6 June 2003 declaring unconstitutional section 19, paragraph 5, of the Law on Radio and Television which restricts the airtime of broadcasts in languages spoken by minorities in Latvian private media.

C. Concerns and recommendations

444. The Committee is concerned that the legal provisions defining racial discrimination are not in full conformity with article 1 (1) of the Convention. While acknowledging that amendments to the 2001 Labour Law are being prepared that will define indirect discrimination, the Committee notes that basing the finding of indirect discrimination on a quantitative condition is not in accordance with the Committee's general recommendation XIV. Furthermore, it notes that the relevant provisions of the Labour Law and the Criminal Law lack reference to certain grounds of discrimination enumerated in the Convention, and that these provisions do not fully cover civil, political, economic, social, cultural and other fields of public life, as required by the Convention.

> The Committee recommends that the State party pursue its efforts with regard to the preparation of a comprehensive anti-discrimination law and of amendments to the Labour Law. It urges the State party to incorporate fully the definition of racial discrimination stipulated in article 1 (1) of the Convention, into its legislation.

445. The Committee notes the entry into force in September 2000 of the State Language Law aimed at promoting the Latvian language and better integration of members of ethnic minorities into Latvian society. The Committee is concerned at the possible negative effects of a narrow and strict interpretation of this legislation. Furthermore, the scope of language requirements in the State Language Law in relation to employment, particularly in the private sector, may lead to discrimination against minorities.

> The Committee recommends that the State party ensure that the State Language Law does not result in unnecessary restrictions that may have the effect of creating or perpetuating ethnic discrimination. The Committee calls on the State party to ensure that vulnerable groups, such as prisoners, sick and poor persons, among non-Latvian speakers have the possibility of communicating with the relevant authorities through provision of, if necessary, translation facilities.

446. The Committee is concerned that the law of the State party does not fully respond to the requirements of article 4 of the Convention. The Committee notes that the State party has failed to effectively prohibit all organized and other propaganda activities and to recognize participation in such activities as an offence punishable by law, in accordance with article 4 (b) of the Convention.

The Committee recommends that the State party review its domestic law in the light of its general recommendation XV concerning the implementation of article 4 of the Convention, and that it adopt specific legislation on organized and other propaganda activities that promote and incite racial discrimination, irrespective of the legal status of the group or organization.

447. The Committee is concerned at the low number of cases initiated relevant to article 4 and recommends that the State party consider whether the limited numbers of complaints is not the result of the victims' lack of awareness of their rights, a lack of confidence on the part of individuals in the police and judicial authorities, or the authorities' lack of attention or sensitivity to cases of racial discrimination.

The Committee requests that the State party include in its next periodic report disaggregated statistical information on cases reported to the police, prosecutions launched and penalties imposed with respect to offences which relate to the dissemination of ideas based on superiority or hatred, incitement to racial discrimination, racial violence and participation in such acts, as stated in article 4 of the Convention.

448. The Committee recognizes that political rights can be legitimately limited to citizens. Nevertheless, noting that most non-citizens have been residing in Latvia for many years, if not for their whole lives, the Committee strongly recommends that the State party consider facilitating the integration process by making it possible for all non-citizens who are long-time permanent residents to participate in local elections.

449. While noting the measures taken by the State party to increase the rate of naturalization of non-citizens, the Committee remains concerned at the limited results of these efforts. The Committee is concerned at the growing number of persons who fail the language examination and at the possible lack of availability or accessibility of Latvian language instruction for all those wishing to benefit from this facility.

The Committee recommends that the State party further study the underlying reasons for the low level of naturalization applications with a view to devising strategies targeting specific groups of potential applicants. The Committee stresses that positive measures should be employed to attract non-citizens to the process, while ensuring that any measures taken do not adversely affect their current status. It also strongly urges the State party to ensure the availability of Latvian language instruction, to the extent possible, for those wishing to avail themselves of such opportunities.

450. The Committee regrets the lack of disaggregated data in the State party report with respect to the enjoyment of the economic, social and cultural rights enumerated in article 5 (e) of the Convention.

The Committee invites the State party to provide in its next report data, disaggregated by ethnicity and sex, on the enjoyment of the rights enumerated in article 5 (e) of the Convention, taking into account, inter alia, its general recommendations XXV on gender-related dimensions of racial discrimination and XXVII on discrimination against Roma.

451. The Committee expresses concern with regard to the restrictions imposed upon non-citizens in the field of employment.

> The Committee urges the State party to reduce the list of occupations restricted to citizens and to keep it under review, with a view to ensuring that the enjoyment of the right to work is not unduly limited.

452. While recognizing the importance of the education system in creating a coherent society, the Committee is concerned that the educational reform that will introduce bilingual education in all minority schools by September 2004 may cause problems for linguistic minorities in the educational system if it is implemented in the proposed time frame.

> The Committee encourages the State party to remain attentive and flexible to the needs and abilities of the persons primarily affected and concerned by the reform. The importance of maintaining a close dialogue with the schools and local communities, including both parents and children, is paramount in the process. It further urges the State party to monitor the reform process closely in order to ensure that a high quality of education is maintained by, inter alia, considering an extension of the transition period to bilingual education and preventing any negative effects that might otherwise arise.

453. While recognizing the possibility of establishing private schools offering, inter alia, education in minority languages, the Committee urges the State party to ensure that the manner in which funding to private schools is provided is in conformity with the Convention.

454. The Committee regrets the lack of any information with respect to article 5 (f) of the Convention relating to the right of access to any place or service intended for use by the general public.

> The Committee requests the State party to include information on the implementation of article 5 (f) of the Convention, as recommended in its general recommendation XX. It further recommends that the State party ensure that the relevant provisions are incorporated into the new anti-discrimination legislation which is currently being drafted.

455. While noting that the State party is in the process of improving its legislation with a view to providing effective protection and remedies against any acts of racial discrimination, including the right to seek reparation for discrimination, the Committee is concerned at the very low level of awareness among the population of such a possibility.

> The Committee recommends that the State party intensify its efforts to adopt and improve legislation in this respect. The State party is further encouraged to publicize the availability of legal remedies with a view to reaching out to the most vulnerable segments of society.

456. The Committee is concerned at the persistence of negative racial and ethnic stereotypes and notes that educational and training activities undertaken by the State party may not have been sufficient to combat discriminatory attitudes and practices.

> The Committee recommends that the State party pursue its efforts to combat prejudices and promote understanding and tolerance through a broad range of measures targeting both professionals working with and persons belonging to minority groups, as well as the general public. The Committee encourages the State party, through the broad-based participatory drafting process of the envisaged National Plan of Action to implement the Durban Declaration and Plan of Action, to create awareness with regard to the diverse issues relating to racial discrimination.

457. The Committee encourages the State party to consult with a broader range of civil society organizations working in the area of human rights, and specifically in the field of combating racial discrimination, during the preparation of the next periodic report.

458. The Committee welcomes the information that the State party is considering making the optional declaration provided for in article 14 of the Convention and looks forward to receiving further information in this respect in the next periodic report.

459. The Committee strongly recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meetings of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111. In this connection, the Committee refers to General Assembly resolution 57/194 of 18 December 2002, in which the Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

460. The Committee requests that the State party include in its next periodic report information on the progress made with respect to the National Plan of Action being prepared and on other measures it may have taken to implement the Durban Declaration and Programme of Action at the national level.

461. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the observations of the Committee on these reports be similarly publicized in Latvian, as well as in Russian and other minority languages, as appropriate.

462. The Committee recommends that the State party submit a joint sixth, seventh and eighth periodic report, due on 14 May 2007, and that the report address all points raised in the present concluding observations.

NORWAY

463. The Committee considered the sixteenth periodic report of Norway (CERD/C/430/Add.2), which was due on 5 September 2001, at its 1602nd and 1603rd meetings (CERD/C/SR.1602 and 1603), held on 15 and 18 August 2003. At its 1611th meeting (CERD/C/SR.1611), held on 22 August 2003, it adopted the following concluding observations.

A. Introduction

464. The Committee welcomes the report, submitted by the State party in a timely fashion, and the additional oral and written information provided by the delegation. It expresses its

satisfaction at the progress reported and the information that the Government's Advisory Committee on human rights and non-governmental organizations participated in the preparation of the report. The Committee further expresses its appreciation for the detailed responses of the delegation to the questions raised during the consideration of the report.

B. Positive aspects

465. The Committee acknowledges the quality of the report of the State party, which is in conformity with the reporting guidelines of the Committee and addresses the concerns and recommendations formulated by the Committee following the consideration of the previous report.

466. The Committee takes note of the amendments to Norway's Immigration Act in 2000, namely the transfer of responsibility for the State party's immigration policy from the Ministry of Justice to the Ministry of Local Government and Regional Development, as well as the appointment of a committee to revise the Immigration Act.

467. The Committee welcomes the amendment to section 135 (a) of the Penal Code, adopted in December 2002, which explicitly states that racist symbols are covered by this provision.

468. The Committee commends the adoption of a second National Plan of Action to Combat Racial Discrimination for the four-year period 2002-2006 to implement the Durban Declaration and Programme of Action, and the establishment of a committee to follow up the implementation of the first National Plan of Action.

469. The Committee commends the State party's policy in respect of national minorities which is based on the principle of respect for cultural diversity.

C. Concerns and recommendations

470. The Committee takes note of the State party's views on the difficulties involved in determining the ethnic composition of the population, but remains concerned that such information has not been provided in the State party's report.

> In the light of the absence of statistical data on the ethnic composition of Norwegian society, the Committee recommends that the State party provide an estimate of the demographic composition of the population in subsequent reports, as requested in paragraph 8 of the reporting guidelines, and draws the attention of the State party to its general recommendation VIII concerning the self-identification of members of particular racial and ethnic groups.

471. The Committee takes note of the fact that the State party is currently considering the incorporation of the Convention into Norwegian law through an amendment to the Human Rights Act of 1999.

> The Committee encourages the State party to give due consideration to this issue in order to give full effect to the provisions of the Convention in its domestic legal order.

472. While the Committee welcomes the proposed Act on protection against ethnic discrimination, which aims to provide wider protection against discrimination in various fields and introduces a rule on the shared burden of proof in civil cases, it notes that the proposed Act will only cover ethnic and not racial discrimination.

> The Committee invites the State party to submit further information in its next periodic report on the reasons for not including racial discrimination in the proposed Act.

473. The Committee takes note of the amendments to the Aliens Act, which include provisions for the expulsion of persons charged with terrorist acts or where there are serious reasons to suspect a person of participating in such an act.

> While acknowledging the State party's national security concerns, the Committee recommends that the State party seek to balance those concerns with its human rights obligations. In this regard, it draws the State party's attention to the Committee's statement of 8 March 2002 in which it underlines the obligation of States to "ensure that measures taken in the struggle against terrorism do not discriminate in purpose or effect on grounds of race, colour, descent, or national or ethnic origin".

474. The Committee is concerned that the strict interpretation of the scope of section 135 (a) of the Penal Code, which prohibits any utterance or other communication of racist ideas made publicly or otherwise disseminated among the public, may not cover all aspects of article 4 (a) of the Convention.

> The Committee invites the State party to review the provisions of section 135 (a) of the Penal Code in the light of article 4 (a) of the Convention and to provide information on this issue in its next periodic report.

475. The Committee takes note of the State party's observation that a formal ban on organizations might not be very effective in combating racism, owing to the fact that the groups involved in most of the racist activities are loose networks and not formal organizations. In this respect, the Committee draws the State party's attention to its general recommendation XV according to which all provisions of article 4 of the Convention are of a mandatory character, including declaring illegal and prohibiting all organizations promoting and inciting racial discrimination.

> The Committee recommends that the State party adopt the necessary legislation in order to ensure full compliance with article 4 (b) of the Convention.

476. The Committee takes note that a high percentage of asylum applications have been decided either by the Chairman alone or by the legal secretariat of the State party's Immigration Appeals Board (UNE), without a hearing before the Board.

> The Committee recommends that the State party provide additional information as to whether this procedure offers sufficient protection and ensures the relevant legal safeguards to all asylum applicants, without discrimination.

477. **While the Committee acknowledges the frankness of the State party and its efforts to combat discrimination faced by minorities in relation to the housing and labour markets, it remains concerned about the persistence of such discrimination.**

> The Committee encourages the State party to intensify its efforts in these fields, in accordance with article 5 (e) of the Convention, and trusts that provisions to combat discrimination in the housing and labour markets will be included in the proposed Act on protection against ethnic discrimination.

478. The Committee notes with concern that, although there have been few court cases concerning discrimination consisting in refusing access to places serving the general public such as bars, discos, nightclubs and restaurants, discrimination in this area continues to exist. In this respect, the Committee also notes that domestic courts can determine whether persons are refused entry to such places on racial grounds.

> The Committee encourages the State party to include adequate provisions to combat discrimination in relation to access to places intended for use by the general public in the proposed Act on protection against ethnic discrimination.

479. The Committee is concerned about the shortage of well-qualified interpreters in court proceedings, which may be an obstacle to the enjoyment by non-native speakers of the right to equal treatment before the courts and all other organs administering justice.

> The Committee recommends that the State party adopt further measures, in accordance with article 5 (a) of the Convention, to mitigate the current difficulties with regard to interpretation services.

480. With regard to article 7 of the Convention, the Committee notes with concern that courses focusing on racism and discrimination are not compulsory in the basic curriculum of the Police Academy.

> The Committee draws the attention of the State party to its general recommendation XIII on the training of law enforcement officials in the protection of human rights, and invites the State party to consider reforming the Police Academy's education programme so as to ensure a better understanding of the norms and values in different cultures and to inform trainees about the obligations of the State party under the Convention.

481. The Committee is concerned that the recently proposed Finnmark Act will significantly limit the control and decision-making powers of the Saami population over the right to own and use land and natural resources in Finnmark County. The Committee draws the attention of the State party to its general recommendation XXIII on the rights of indigenous peoples which, inter alia, calls upon the State party to recognize and protect the right of indigenous peoples to own, develop, control and use their communal lands, territories and resources.

> The Committee recommends that the State party find an adequate solution concerning the control and decision-making powers over the right to land and natural resources in Finnmark County in agreement with the Saami people.

482. The Committee encourages the State party to continue to consult with organizations of civil society working in the area of combating racial discrimination during the preparation of the next periodic report.

483. The Committee recommends that the State party disseminate widely information on the domestic remedies available against acts of racial discrimination, on the legal avenues for obtaining compensation in cases of discrimination and on the individual complaint procedure under article 14 of the Convention.

484. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the observations of the Committee on these reports be similarly publicized.

485. The Committee recommends that the State party submit its seventeenth periodic report jointly with its eighteenth periodic report, due on 5 September 2005, and that it address all points raised in the present concluding observations.

REPUBLIC OF KOREA

486. The Committee considered the eleventh and twelfth periodic reports of the Republic of Korea (CERD/C/426/Add.2), which were due on 4 January 2000 and 2002 respectively, submitted as one document, at its 1592nd and 1593rd meetings (CERD/C/SR.1592 and 1593), held on 8 and 11 August 2003. At its 1604th meeting (CERD/C/SR.1604), held on 18 August 2003, it adopted the following concluding observations.

A. Introduction

487. The Committee welcomes the reports submitted by the State party and the additional oral and written information provided by the delegation. It expresses its satisfaction with the progress reported. The Committee is encouraged by the attendance of a large delegation and expresses its appreciation for the candid and constructive responses of its members to the questions asked.

B. Positive aspects

488. The Committee notes with satisfaction the adoption of the National Human Rights Commission Act in 2001 establishing a national human rights institution.

489. The Committee welcomes legislation adopted in July 2003 establishing the Employment Permit System, which provides foreign workers with the same labour protection as domestic workers. It also welcomes the amendment to the education regulations that allows foreign children of compulsory school age, including those of undocumented migrant workers, equal access to local schools.

490. The Committee welcomes the April 2002 amendments to the immigration regulations, which have facilitated the attainment of permanent resident status by foreigners, including members of the ethnic Chinese community.

491. The Committee notes with appreciation the progress made in improving the asylum system and the process for determining refugee status, in particular the expansion of the Refugee Recognition Council to include members of civil society and the increased access to social services and the labour market afforded to refugees.

C. Concerns and recommendations

492. The Committee takes note of the view of the State party as to the homogeneity of its population. However, it also notes the information provided in the report about ethnic Chinese and other ethnic minorities living in the Republic of Korea.

> In light of the absence of specific statistical data on the ethnic composition of society in the Republic, the Committee recommends that the State party provide an estimate of the ethnic composition of the population in subsequent reports, as requested in paragraph 8 of the reporting guidelines, and draws the attention of the State party to its general recommendation VIII concerning the self-identification of members of particular racial and ethnic groups. The Committee also suggests that the State party take into account its general recommendation XXIX on descent-based discrimination when gathering information on the situation of the Paekjong community.

493. The Committee regrets the lack of specific information in the State party's report on acts of racial discrimination and complaints and legal action by victims. The Committee reminds the State party that the absence of complaints and legal action by victims of racial discrimination may be the result of the absence of relevant specific legislation, or of a lack of awareness of the availability of legal remedies, or of insufficient will on the part of the authorities to prosecute.

> The Committee requests that the State party include in its next periodic report statistical information, disaggregated by gender, on investigations and prosecutions launched and penalties imposed in cases of offences which relate to racial discrimination and where the relevant provisions of the existing domestic legislation have been applied. The Committee also requests more detailed information on how the term "unreasonable discrimination" in article 30 (2) of the National Human Rights Commission Act (2001) has been interpreted and applied in practice.

494. While taking note that there are ongoing discussions in the State party concerning the drafting of a Discrimination Prohibition Law, the Committee nevertheless remains concerned that the legislation of the State party does not seem to respond fully to the requirements of article 4 of the Convention.

> The Committee recommends that the State party review its domestic legislation in the light of general recommendation XV concerning the implementation of article 4 of the Convention and that it adopt specific legislation on the offence of racial discrimination and incitement of racial hatred in accordance with article 4.

495. The Committee remains concerned that foreign workers in the industrial trainee programme and undocumented migrants do not fully enjoy their rights as provided by article 5.

> **The Committee recommends that the State party continue to take measures to improve the situation of all migrant workers, in particular with regard to the right to security of person and to social security and social services. The Committee also recommends that the State party include in its next report information on the implementation of relevant provisions of article 5 for all foreign workers, including industrial trainees, undocumented migrants, refugees and asylum-seekers.**

496. The Committee is concerned about the trafficking of foreign women to the State party for the purpose of prostitution, although it notes the State party's efforts to combat this phenomenon.

> **The Committee encourages the State party to expand and strengthen ongoing efforts to prevent trafficking and provide support and assistance to victims, wherever possible in their own language.**

497. **The Committee encourages the State party to consult with organizations of civil society working in the area of combating racial discrimination during the preparation of the next periodic report.**

498. **The Committee recommends that the State party disseminate information widely and raise public awareness of the domestic remedies available against acts of racial discrimination, on the legal avenues for obtaining compensation in cases of discrimination and on the individual complaints procedure under article 14 of the Convention.**

499. **The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on action plans or other measures taken to implement the Durban Declaration and Programme of Action at national level.**

500. **The Committee recommends that the State party's reports be made readily available in the Korean language to the public from the time they are submitted and that the observations of the Committee on these reports be similarly publicized.**

501. **The Committee recommends that the State party submit its thirteenth periodic report jointly with its fourteenth periodic report, due on 4 January 2006, and that it address all points raised in the present concluding observations.**

SAINT VINCENT AND THE GRENADINES

502. The Committee considered the second to tenth periodic reports of Saint Vincent and the Grenadines, which were due biennially from 9 December 1984 to 9 December 2000, submitted as one document (CERD/C/378/Add.1), at its 1604th meeting (CERD/C/SR.1604), held on 18 August 2003. At its 1611th meeting (CERD/C/SR.1611), held on 22 August, it adopted the following concluding observations.

A. Introduction

503. The Committee welcomes the submission by the State party of a report after a lapse of almost 20 years.

504. The Committee regrets, however, that the report does not comply with the Committee's reporting guidelines, as it does not contain information on articles 3 to 7 of the Convention, nor on the practical effects of the Convention, and does not respond to the concerns expressed by the Committee in previous concluding observations. The Committee notes that the State party does not have representation in Geneva, but nevertheless regrets that the State party was not able to respond to its invitations to participate in the meeting.

B. Factors and difficulties impeding the implementation of the Convention

505. The Committee takes note of the difficulties presently faced by the State party, in particular its economic vulnerability within the context of globalization and the massive infrastructural damage caused by natural disasters, and of the fact that its limited resources are to be devoted to reconstruction rather than development.

C. Positive aspects

506. The Committee welcomes the information provided by the State party on the content of its Constitution regarding human rights, and in particular the right not to be discriminated against.

507. The Committee welcomes the fact that under section 16 of the Constitution, any individual alleging that his/her rights, as enshrined in the Constitution, have been violated can apply to the High Court for redress.

D. Concerns and recommendations

508. The Committee is concerned that sections 1 and 13 of the 1979 Constitution do not fully comply with article 1 of the Convention, as they do not expressly forbid discrimination based on descent and national or ethnic origin. The Committee is also concerned that exceptions and limitations to the principle of non-discrimination, provided for in particular by subsections 4, 6, 7 and 8 of article 13 of the Constitution, appear to be incompatible with the Convention.

> The Committee recommends that the State party review its domestic law so that it complies fully with the Convention.

509. The Committee notes that the periodic report does not contain information on the ethnic composition of the population, the various languages spoken, as well as on inter-ethnic relations in Saint Vincent and the Grenadines.

> The Committee recommends that information in this regard be included in the next periodic report.

510. The Committee notes with concern that no information was provided by the State party on the implementation of article 4 of the Convention.

> The Committee draws the attention of the State party to its general recommendation XV concerning the implementation of article 4 of the Convention and requests that detailed information be included in the next periodic report on this issue.

511. The Committee is concerned that no information has been provided by the State party on the economic, social and cultural situation of minority groups. It is further concerned that persons of Carib ancestry tend to be viewed as the base of the social pyramid and experience discrimination. In general, access to health care and educational opportunities depends on the level of family income.

> Recalling that racial discrimination and poverty issues intersect, the Committee recommends that the State party include in its next periodic report information on affirmative action measures adopted, in conformity with article 2, paragraph 2, of the Convention, in order to ensure the adequate development and protection of minority groups, in particular the Caribs. The enjoyment of economic, social and cultural rights, including access to public services, must be ensured for all without discrimination, in accordance with article 5 of the Convention.

512. The Committee is concerned that the Constitution does not contain reference to economic, social and cultural rights. The Committee further notes that section 16 of the Constitution has never been invoked with respect to alleged acts of racial discrimination.

> The Committee recommends that the State party ensure, as provided in articles 5 and 6 of the Convention, the enjoyment by all of effective protection and remedies against acts of racial discrimination which violate human rights, including economic, social and cultural rights. The Committee further recommends that the State party consider whether the lack of complaints relating to racial discrimination before the High Court is not the result of the victims' lack of awareness of their rights, the lack of confidence on the part of individuals in the judicial authorities, or the authorities' lack of attention or sensitivity to cases of racial discrimination. The State party should inform the Committee about its opinion on this issue in the next periodic report.

513. The Committee notes that information was provided by the State party on existing human rights associations in the country, but remains concerned about the reported weakness of civil society organizations in Saint Vincent and the Grenadines.

> The Committee encourages the State party to facilitate the activities of non-governmental organizations, in particular in the areas of better enjoyment of human rights and of combating racial discrimination. The State party is encouraged to consult with such organizations during the preparation of the next periodic report.

514. The Committee strongly urges the Government of Saint Vincent and the Grenadines to avail itself of the technical assistance offered under the advisory services and technical assistance programme of the Office of the United Nations High Commissioner for Human Rights, with the aim of drawing up and submitting its next periodic report in accordance with the Committee's reporting guidelines (CERD/C/70/Rev.5).

515. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on action plans or other measures taken to implement the Durban Declaration and Programme of Action at national level.

516. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111. In this connection, the Committee refers to General Assembly resolution 57/194 of 18 December 2002, in which the Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

517. The Committee notes that the State party has not made the optional declaration provided for in article 14 of the Convention and recommends that it consider doing so.

518. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the observations of the Committee on these reports be similarly publicized.

519. The Committee recommends that the State party submit its eleventh to thirteenth periodic reports in one document, due on 9 December 2006, and that it address all the issues raised in the present conclusions.

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

520. The Committee considered the sixteenth and seventeenth periodic reports of the United Kingdom of Great Britain and Northern Ireland (CERD/C/430/Add.3), which were due on 6 April 2000 and 2002 respectively, submitted as one document, at its 1588th and 1589th meetings (CERD/C/SR.1588 and 1589), held on 6 and 7 August 2003. At its 1607th meeting, (CERD/C/SR.1607), held on 20 August 2003, it adopted the following concluding observations.

A. Introduction

521. The Committee welcomes the detailed report submitted by the State party and expresses its appreciation for the constructive responses of the delegation to the questions asked during the consideration of the report. Furthermore, the Committee welcomes the fact that non-governmental organizations were consulted in the preparation of the report.

522. While the Committee notes with appreciation that the State party addressed most of the concerns and recommendations raised in the Committee's previous concluding observations (CERD/C/304/Add.102), it observes that the report does not fully conform to the Committee's reporting guidelines.

B. Positive aspects

523. The Committee welcomes the Race Relations Amendment Act of 2000, which strengthens the 1976 Race Relations Act by outlawing discrimination in all public authority functions, including the police, as well as the Race Relations Act (Amendment) Regulations of 2003, which widen the definition of indirect discrimination and shift the burden of proof from the victim to the alleged offender.

524. The Committee commends the State party's efforts to address more stringently the issue of incitement to racial hatred, including the introduction of a mechanism whereby the Metropolitan Police will provide a central advice point for all forces in England and Wales in

relation to possible offences of incitement to racial hatred, as well as the increase in the maximum penalty for incitement to racial hatred from two to seven years' imprisonment under the Anti-Terrorism, Crime and Security Act 2001.

525. The Committee welcomes the Police Reform Act, which includes provisions to create a new and more effective police complaints system in England and Wales; the establishment of the Police Ombudsman for Northern Ireland; and the consultations in Scotland on enhancing the independence of the Police Complaints System.

526. The Committee welcomes the establishment of a Community Cohesion Unit within the Home Office, tasked with carrying forward the Government's programme to encourage the building and strengthening of cohesive communities.

527. The Committee welcomes the establishment of the National Asylum Support Service in 2000 as an important step in providing support to eligible asylum-seekers and ensuring that they can access necessary services.

528. The Committee commends the State party's efforts to prepare a National Plan of Action against Racism, in consultation with non-governmental organizations, in pursuance of the recommendations of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

529. The Committee takes note with satisfaction that St. Helena, the British Virgin Islands and the Cayman Islands will include a specific prohibition of racial and other discrimination as well as the necessary enforcement machinery in their Constitutions.

C. Concerns and recommendations

530. The Committee takes note of the State party's position regarding the non-inclusion of the full substance of the Convention within the State party's domestic legal order and that there is no obligation for States parties to make the Convention itself part of their domestic legal order. It is concerned that the State party's courts will not give legal effect to the provisions of the Convention unless the Convention is expressly incorporated into its domestic law or the State party adopts necessary provisions in its legislation.

> The Committee recommends that the State party review its legislation in order to give full effect to the provisions of the Convention in its domestic legal order.

531. The Committee also reiterates its concern over the fact that the State party continues to uphold its restrictive interpretation of the provisions of article 4 of the Convention. It recalls that such interpretation is in conflict with the State party's obligations under article 4 (b) of the Convention and draws the State party's attention to the Committee's general recommendation XV according to which the provisions of article 4 are of a mandatory character

> In the light of the State party's recognition that the right to freedom of expression and opinion are not absolute rights, and in the light of statements by some public officials and media reports that may adversely influence racial harmony, the Committee recommends that the State party reconsider its interpretation of article 4.

532. The Committee is concerned about the increasing racial prejudice against ethnic minorities, asylum-seekers and immigrants reflected in the media and the reported lack of effectiveness of the Press Complaints Commission in dealing with this issue.

> **The Committee recommends that the State party consider further how the Press Complaints Commission can be made more effective and can be further empowered to consider complaints received from the Commission for Racial Equality as well as other groups or organizations working in the field of race relations.**
>
> **The Committee further recommends that the State party include in its next report more detailed information on the number of complaints of racial offences received as well as the outcome of such cases brought before the courts.**

533. The Committee remains concerned at reports of attacks on asylum-seekers. In this regard, the Committee notes with concern that antagonism towards asylum-seekers has helped to sustain support for extremist political opinions.

> **The Committee recommends that the State party adopt further measures and intensify its efforts to counter racial tensions generated through asylum issues, inter alia by developing public education programmes and promoting positive images of ethnic minorities, asylum-seekers and immigrants, as well as measures making the asylum procedures more equitable, efficient and unbiased.**

534. While noting the rapid implementation in domestic law of the European Race Directive, the Committee is concerned that, unlike the Race Relations Act, the amending regulation does not cover discrimination on grounds of colour or nationality. The Committee is therefore concerned that the emerging situation may lead to inconsistencies in discrimination laws and differential levels of protection according to the categorization of discrimination (i.e. race, ethnic origin, colour, nationality, etc.), and create difficulties for the general public as well as law enforcement agencies.

> **The Committee recommends that the State party extend the amending regulations to cover discrimination on the grounds of colour and nationality. In this context, the Committee also recommends that the State party consider introducing a single comprehensive law, consolidating primary and secondary legislations, to provide for the same protection from all forms of racial discrimination, enshrined in article 1 of the Convention.**

535. The Committee is concerned about the application of section 19 D of the Race Relations Amendment Act of 2000, which makes it lawful for immigration officers to "discriminate" on the basis of nationality or ethnic origin provided that it is authorized by a minister. This would be incompatible with the very principle of non-discrimination.

> **The Committee recommends that the State party consider re-formulating or repealing section 19 D of the Race Relations Amendment Act in order to ensure full compliance with the Convention.**

536. The Committee is deeply concerned about provisions of the Anti-Terrorism Crime and Security Act which provide for the indefinite detention without charge or trial, pending deportation, of non-nationals of the United Kingdom who are suspected of terrorism-related activities.

> While acknowledging the State party's national security concerns, the Committee recommends that the State party seek to balance those concerns with the protection of human rights and its international legal obligations. In this regard, the Committee draws the State party's attention to its statement of 8 March 2002 in which it underlines the obligation of States to "ensure that measures taken in the struggle against terrorism do not discriminate in purpose or effect on grounds of race, colour, descent, or national or ethnic origin".

537. While the Committee welcomes the initiatives taken for further reforms within the police force, including enhanced representation of ethnic minorities, it recalls its previous concerns about the disproportionately high incidence of deaths in custody of members of ethnic or racial minority groups.

> The Committee invites the State party to submit in its next periodic report detailed information on the new police complaints system; the new Police Complaints Commission (IPCC) which will be fully operational from April 2004; the number of complaints involving racial discrimination referred to IPCC, including deaths in custody; and the outcome of these complaints as well as the disciplinary measures taken in each case. It also encourages the State party to adopt measures conducive to integrating the different ethnic and racial representation within the police force.

538. The Committee is concerned that a disproportionately high number of "stops and searches" are carried out by the police against members of ethnic or racial minorities.

> The Committee encourages the State party to implement effectively its decision to ensure that all "stops and searches" are recorded and to give a copy of the record form to the person concerned. The Committee invites the State party to address this issue in more detail in its next periodic report.

539. The Committee notes that the State party recognizes the "intersectionality" of racial and religious discrimination, as illustrated by the prohibition of discrimination on ethnic grounds against such communities as Jews and Sikhs, and recommends that religious discrimination against other immigrant religious minorities be likewise prohibited.

540. The Committee is concerned about reported cases of "Islamophobia" following the 11 September attacks. Furthermore, while the Committee takes note that the State party's criminal legislation includes offences where religious motives are an aggravating factor, it regrets that incitement to racially motivated religious hatred is not outlawed.

> The Committee recommends that the State party give early consideration to the extension of the crime of incitement to racial hatred to cover offences motivated by religious hatred against immigrant communities.

541. While reiterating its satisfaction in connection with the enactment of the Human Rights Act of 1998, the Committee notes that no central body has been established to implement the Act. The Committee considers that the absence of such a body may undermine the effectiveness of the Act.

> The Committee refers to the earlier commitment of the State party to consider establishing a Human Rights Commission in order to enforce the Act and the possibility of granting such a commission comprehensive competence to review complaints of human rights violations, and recommends an early decision in this regard.

542. The Committee expresses concern about the discrimination faced by Roma/Gypsies/Travellers that is reflected, inter alia, in their higher child mortality rate, exclusion from schools, shorter life expectancy, poor housing conditions, lack of available camping sites, high unemployment rate and limited access to health services.

> The Committee draws the attention of the State party to its general recommendation XXVII on discrimination against Roma and recommends that the State party develop further appropriate modalities of communication and dialogue between Roma/Gypsy/Traveller communities and central authorities. It also recommends that the State party adopt national strategies and programmes with a view to improving the situation of the Roma/Gypsies/Travellers against discrimination by State bodies, persons or organizations.

543. The Committee reiterates its concern that besides the Roma/Gypsy/Traveller populations, certain other minority groups or individuals belonging to them experience discrimination in the areas of employment, education, housing and health.

> The Committee urges the State party to continue taking affirmative measures in accordance with article 2, paragraph 2, of the Convention to ensure equal opportunities for full enjoyment of their economic, social and cultural rights. Moreover, the Committee encourages the State party to submit in its next periodic report more detailed information on achievements under the State party's programmes aimed at narrowing the employment gap and improving housing conditions among different ethnic groups.

544. The Committee recalls its general recommendation XXIX, in which the Committee condemns descent-based discrimination, such as discrimination on the basis of caste and analogous systems of inherited status, as a violation of the Convention, and recommends that a prohibition against such discrimination be included in domestic legislation.

> The Committee would welcome information on this issue in the next periodic report.

545. The Committee regrets that no information on the implementation of the Convention in the British Indian Ocean Territory was provided in the State party's report.

> The Committee looks forward to receiving in its next periodic report information on the measures taken by the State party to ensure the adequate development and protection of the Ilois for the purpose of guaranteeing their full and equal enjoyment of human rights and fundamental freedoms in accordance with article 2, paragraph 2, of the Convention.

546. The Committee encourages the State party to continue to consult with organizations of civil society working in the area of combating racial discrimination and during the preparation of the next periodic report.

547. The Committee notes that the State party is currently reviewing the possibility of making the optional declaration provided for in article 14 of the Convention and invites the State party to give high priority to such a review and to give favourable consideration to making this declaration.

548. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action, and that it include in its next periodic report updated information on the action plan that it is in the process of drafting in order to implement the Durban Declaration and Programme of Action at national level.

549. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the observations of the Committee on these reports be similarly publicized.

550. The Committee recommends that the State party submit a combined eighteenth and nineteenth periodic report, due on 6 April 2006, and that the report address all points raised in the present concluding observations.

MALAWI

551. At its 1605th meeting (CERD/C/SR.1605), held on 19 August 2003, the Committee reviewed the implementation of the Convention by Malawi, based on a variety of materials at its disposal, and adopted, at its 1611th meeting (CERD/C/SR.1611), on 22 August 2003, the following concluding observations.

A. Introduction

552. The Committee regrets that the State party has not yet reported to the Committee since it ratified the Convention in 1996. The Committee notes that Malawi does not have any representation in Geneva, but nevertheless regrets that the State party was not able to respond to its invitations to participate in the meeting and submit relevant information. It wishes to draw to the attention of the State party that reporting is an obligation under article 9 of the Convention and that non-compliance in this regard creates serious obstacles to the effective functioning of the monitoring system set up by the Convention.

553. The Committee expresses concern that, although the State party has ratified the main international human rights instruments, it has not fulfilled its reporting requirements to the human rights treaty bodies. The Committee notes that between 1988 and the present, the only report submitted was the initial report to the Committee on the Rights of the Child in August 2000.

B. Factors and difficulties impeding the implementation of the Convention

554. The Committee is aware that the State party is currently facing a very difficult situation, owing in part to serious food shortages and a very high incidence of AIDS among the population. It further notes that the insufficient educational infrastructure and the high illiteracy rates constitute impediments to the full implementation of the Convention.

C. Positive aspects

555. The Committee welcomes the establishment of the Malawi Human Rights Commission in 1999, endowed with the task of protecting and promoting human rights, investigating human rights violations and following up individual complaints.

D. Concerns and recommendations

556. The Committee notes that the State party's Constitution prohibits discrimination, particularly on the grounds of race, colour, language, religion, nationality and ethnic origin, and allows for the adoption of legislation to address inequalities in society and to prohibit discriminatory practices. It welcomes the adoption of the Employment Act in 2000 which bans discrimination in the context of employment. The Committee is nevertheless concerned that no further legislation has been adopted to prevent and eliminate racial discrimination.

> The Committee recalls that the inclusion of a general principle of non-discrimination in the Constitution is not a sufficient response to the requirements of the Convention. The Committee recommends that the State party adopt further legislation in order to meet the requirements of articles 2, 3, 4 and 5 of the Convention. In this connection, the Committee draws attention to its general recommendations I, II, VII and XV, and emphasizes the preventive value of legislation expressly prohibiting racial discrimination and racist propaganda. It recommends that the State party, when submitting its periodic report, provide information on progress achieved.

557. The Committee recalls that, as stated in its general recommendation XX, article 5 of the Convention implies the existence and recognition of civil, political, economic, social and cultural rights and expresses its grave concern about reports of serious human rights violations. The Committee underlines that full respect for human rights is the necessary framework for the efficiency of measures adopted to combat racial discrimination.

> The Committee recommends that the State party take the necessary measures to implement the Convention.

558. The Committee is concerned that the registration of births is not compulsory, except for children of non-African origin.

> The Committee underlines the existing link between the registration of births and the ability of children to enjoy civil, political, economic, social and cultural rights, as enumerated under article 5 of the Convention. It recommends that the State party review the Births and Deaths Registration Act in order to make birth registration compulsory for all children without any discrimination.

559. The Committee expresses concern over the State party's reservations to the 1951 Convention relating to the Status of Refugees which, in particular, reduce the protection offered to refugees in the field of employment, access to property, right of association, education and social security.

> The Committee welcomes the draft Refugee Act, which reflects the intention of the State party to withdraw these reservations, and encourages the State party to give high priority to this process. The Committee recommends, in particular, that the State party take steps to ensure that child refugees are, in practice, given access to education.

560. The Committee is concerned that, according to certain information, women continue to be victims of discriminatory practices.

> The Committee draws the State party's attention to its general recommendation XXV on gender-related dimensions of racial discrimination and recommends that the State party assess and prevent racial discrimination against women in general.

561. The Committee is concerned that the current school curriculum does not include programmes to combat prejudices and to promote tolerance among ethnic groups, as required by article 7 of the Convention.

> The Committee recommends that such programmes be included in the school curriculum.

562. The Committee is concerned that the budgetary constraints facing the Malawi Human Rights Commission may limit its effectiveness.

> The Committee recommends that the State party include information on this issue in its next periodic report. It also recommends that information on the functions and activities of the Malawi Human Rights Commission be disseminated both in English and in Chichewa.

563. The Committee strongly urges the Government of Malawi to avail itself of the technical assistance offered under the advisory services and technical assistance programme of the Office of the United Nations High Commissioner for Human Rights, with the aim of drawing up and submitting as soon as possible a report drafted in accordance with the reporting guidelines. It also suggests that the State party seek, as appropriate, the assistance of the United Nations Development Programme in this regard. The Committee wishes to draw the attention of the State party to its general recommendation X on technical assistance.

564. The Committee notes that the State party has not made the optional declaration provided for in article 14 of the Convention and recommends that it consider doing so.

565. The Committee strongly recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meetings of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111. In this connection, the Committee refers to General Assembly resolution 57/194 of 18 December 2002, in which the Assembly strongly urged State parties to accelerate their domestic ratification procedures with regard to the amendment and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

566. The Committee draws the attention of the State party to the provisions of the Durban Declaration and Programme of Action, according to which the International Convention on the Elimination of All Forms of Racial Discrimination is the principal international instrument for the elimination of racism, racial discrimination, xenophobia and related intolerance and urging States to cooperate with the Committee in order to promote the effective implementation of the Convention.

567. The Committee decides that a communication should be sent to the Government of Malawi setting out its reporting obligations under the Convention, urging that the dialogue with the Committee start as soon as possible, and requesting the State party to submit its initial report as soon as possible. The Committee draws the attention of the State party to the availability of its members to conduct a mission to Malawi with a view to commencing a dialogue with the State party and assisting it to honour its obligations under the Convention.

568. The Committee requests that the State party give wide publicity to the Convention and to the present concluding observations, both in English and in Chichewa, and draw the attention of the Malawi Human Rights Commission to them.

IV. CONSIDERATION OF COMMUNICATIONS UNDER ARTICLE 14 OF THE CONVENTION

569. Under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination, individuals or groups of individuals who claim that any of their rights enumerated in the Convention have been violated by a State party and who have exhausted all available domestic remedies may submit written communications to the Committee on the Elimination of Racial Discrimination for consideration. A list of 43 States parties which have recognized the competence of the Committee to consider such communications can be found in annex I. In the period under review, two more States have made the declaration under article 14:

570. Consideration of communications under article 14 of the Convention takes place in closed meetings (rule 88 of the Committee's rules of procedure). All documents pertaining to the work of the Committee under article 14 (submissions from the parties and other working documents of the Committee) are confidential.

571. At its sixty-second session, the Committee declared inadmissible the following cases: No. 22/2002 (*POEM and FASM v. Denmark*), 24/2002 (*Nikolas Regerat et al. v. France*), and 25/2002 (*Ahmad Najaati Sadic v. Denmark*). It also adopted its opinion on communication No. 26/2002 (*Stephen Hagan v. Australia*). This opinion and the three decisions on admissibility are reproduced in full in annex III, section A.

572. Communication No. 22/2002 (*POEM and FASM v. Denmark*) concerned two Danish organizations[1] promoting the rights of ethnic minorities. The act of racial discrimination complained of by the petitioners originated from a statement made by the leader of a Danish political party and member of Parliament. She had observed in her weekly newsletter that she considered the multiculturalization of Denmark to be a danger for the principles on which the Danish legal system was built, adding an indirect reference to Muslims. This was reported to the police, which decided not to proceed with an investigation of the case. The petitioners claimed that the State party violated its obligations under article 2, paragraph 1 (d), together with article 6, of the Convention because they had not been afforded an effective domestic remedy. They also claimed a violation of article 2, paragraph 1 (d), read together with articles 4 and 6, arguing that the State party had tolerated a too-broad interpretation of the right to freedom of expression for observations made in the context of a political statement, regardless of whether those statements were racist or prejudicial. The Committee noted the State party's argument that none of the petitioners were plaintiffs in the domestic proceedings and that the report to the police had not been submitted by the petitioners themselves, as required by article 14, paragraph 7 (a), of the Convention. The Committee therefore declared the communication inadmissible. Notwithstanding the above, the Committee called the State party's attention to paragraph 115 of the Durban Programme of Action, in which the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance underlined "the key role that politicians and political parties can play in combating racism, racial discrimination, xenophobia and related intolerance".

573. Communication No. 24/2002 (*Nikolas Regerat et al. v. France*) concerned the members of the AEK Association, a French group that teaches the Basque language to adults. The group had concluded a standard contract for mass mailings with the French Post Office. After having benefited from a preferential mailing rate, the group was informed by the Post Office that, in the

future, the tariff would be increased, as the names of the locations appearing on the envelopes were written in Basque. The Post Office pointed out that, unlike mail addressed in French, mail addressed in a regional language could not be processed automatically, entailing additional processing. The petitioner alleged that the Post Office's attitude constituted a violation of article 1 of the Convention. The Committee considered the petition inadmissible for non-exhaustion of domestic remedies, as required by article 14, paragraph 7 (a), of the Convention.

574. Communication No. 25/2002 (*Ahmad Najaati Sadic v. Denmark*) concerned a Danish citizen of Iraqi origin who argued that his employer had made racist statements directed against him. The police did not proceed with an investigation of the case, on the ground that the argument between the petitioner and his employer had taken place at work, "where only two other persons were present", and not in a public context. The petitioner claimed that the State party had violated its obligations under article 2, paragraph 1 (d), of the Convention by not investigating effectively if it would have been possible for others to overhear the employer's statements. The Committee took note of the State party's argument that, despite the discontinuation of proceedings under section 266 (b) of the Danish Criminal Code, the petitioner could have requested the institution of criminal proceedings against the employer under section 267 of the Criminal Code. It observed that the institution of these proceedings could be considered as an effective remedy which the petitioner failed to exhaust. The Committee therefore considered the communication inadmissible for non-exhaustion of all available domestic remedies. However, the Committee invited "the State party to reconsider its legislation, since the narrow requirement of 'broad publicity' or 'wider dissemination' required under article 266 (b) of the Danish Criminal Code for prosecution of racial insults did not appear to be fully in conformity with the requirements of articles 4 and 6 of the Convention".

575. Communication No. 26/2002 (*Stephen Hagan v. Australia*) concerned an Australian citizen of Aboriginal origin. He alleged that the name of a sporting ground's grandstand in Toowoomba, Queensland, violated articles 2, paragraph 1 (c), 4, 5, paragraphs (d) (i) and (ix), (e) (vi) and (f), 6 and 7, of the Convention, being named "E.S. 'Nigger' Brown Stand", in honour of a well-known personality. The petitioner contended that the term "nigger" is "one of the most racially offensive words in the English language". Considering the case admissible, the Committee, on the merits, took note of the context within which the sign bearing the offending term was originally erected in 1960 and, in particular, the fact that the offending term was not designed to demean or diminish its namesake, who in fact had been of white complexion. Nevertheless, the Committee considered that the use and maintenance of the offending term could, at the present time, be considered offensive and insulting. The Convention had to be interpreted and applied taking into account contemporary circumstances. In this context, the Committee considered it to be its duty to recall the increased sensitivities in respect of words such as the offending term in a contemporary context. It recommended that the State party take appropriate measures to secure the removal of the offending term from the sign in question.

576. At its sixty-third session, the Committee adopted its opinion on communication No. 27/2002 (*Quereshi v. Denmark*) and declared communication No. 28/2002 (*The Documentation and Advisory Centre on Racial Discrimination v. Denmark*) inadmissible. These cases are reproduced in full in annex III, section B.

577. In communication No. 27/2002 (*Kamal Quereshi v. Denmark*), the petitioner argued that the State party had taken insufficient action with respect to a criminal complaint lodged against a political party leader allegedly responsible for offensive statements made by others at a party political conference. Observing that criminal complaints had been lodged against those directly responsible and that there was no evidence that the party leader had participated in making the statements in question, the Committee found that the petition did not disclose a violation of the Convention. At the same time, the Committee requested the State party, in view of the offensive nature of the statements in question, to advise it as to the course of the criminal proceedings against the speakers at the conference. It also reminded the State party of the balance that needed to be struck between freedom of expression and the requirements of the Convention, particularly with respect to members of political parties.

578. In communication No. 28/2003 (*The Documentation and Advisory Centre on Racial Discrimination v. Denmark*), the petitioner, a non-governmental organization, had complained about the allegedly discriminatory nature of a job vacancy announcement. While not excluding the possibility that groups of persons representing ethnic or racial groups may submit individual complaints under article 14 of the Convention, the Committee found that in the absence of an identifiable victim personally affected by the job advertisement in question whom the petitioner was duly authorized to represent, the petitioner had failed to substantiate, for the purposes of article 14, paragraph 1, that it constituted or represented a group of individuals claiming to be the victim of a violation by Denmark of provisions of the Convention. The complaint was accordingly declared inadmissible.

Note

[1] The Umbrella Organization for the Ethnic Minorities and the Association of Muslim Students.

V. THEMATIC DISCUSSIONS

579. In examining the periodic reports of States parties, the Committee has found that some forms of discrimination within the terms of article 1 of the Convention are common to several States and can usefully be examined from a more general perspective. In August 2000, the Committee organized a thematic debate on the issue of discrimination against Roma and in August 2002, it held a thematic discussion on descent-based discrimination. Both thematic discussions led to the adoption of a general recommendation. At its sixty-third session, the Committee decided that it would organize a thematic discussion on non-citizens and racial discrimination at its sixty-fourth session, to be held from 23 February to 12 March 2004.

VI. CONSIDERATION OF COPIES OF PETITIONS, COPIES OF REPORTS AND OTHER INFORMATION RELATING TO TRUST AND NON-SELF-GOVERNING TERRITORIES TO WHICH GENERAL ASSEMBLY RESOLUTION 1514 (XV) APPLIES, IN CONFORMITY WITH ARTICLE 15 OF THE CONVENTION

580. Under article 15 of the Convention, the Committee on the Elimination of Racial Discrimination is empowered to consider copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories and to all other territories to which General Assembly resolution 1514 (XV) applies, transmitted to it by the competent bodies of the United Nations, and to submit to them and to the General Assembly its expressions of opinion and recommendations relating to the principles and objectives of the Convention in those territories.

581. At the request of the Committee, Mr. Pillai examined the documents made available to the Committee in order for it to perform its functions pursuant to article 15 of the Convention. At its 1608th meeting (sixty-third session), Mr. Pillai presented his report, for the preparation of which he had taken into account the reports of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples covering its work during 2002 (A/57/23) and 2003 (A/58/23) and copies of the working papers on the 16 Territories prepared by the Secretariat for the Special Committee and the Trusteeship Council in 2002 and listed in document CERD/C/436, as well as in annex IV to the present report.

582. The Committee noted the additional information contained in the working papers on the United States Virgin Islands and Bermuda on the two cases of racial discrimination reported in respect of the two Territories. It also noted the information on the work in hand in the United Kingdom to introduce a human rights chapter in the Constitutions of the Cayman Islands, the British Virgin Islands and St. Helena, including a specific prohibition of racial discrimination and the necessary enforcement machinery to make the prohibition effective.

583. The Committee noted, as it has done in the past, that it was difficult to fulfil its functions comprehensively under article 15 of the Convention as a result of the absence of any copies of petitions pursuant to paragraph 2 (a) and owing to the fact that the copies of the reports received pursuant to paragraph 2 (b) contain only scant information directly relating to the principles and objectives of the Convention.

584. The Committee would like to repeat its earlier observation that in the reports of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, reference is made to the relations between the Special Committee and the Committee's continuous monitoring of related developments in Territories, having regard to the relevant provisions of article 15 of the Convention. The Committee further noted, however, that issues concerning racial discrimination, and directly relating to the principles and objectives of the Convention, are not reflected in the sections of the report of the Special Committee which deal with a review of its work and the future work of the Special Committee.

VII. ACTION TAKEN BY THE GENERAL ASSEMBLY AT ITS FIFTY-SEVENTH SESSION

585. The Committee considered this agenda item at its sixty-second and sixty-third sessions. For its consideration of this item the Committee had before it General Assembly resolution 57/194 of 18 December 2002, in which the Assembly: (a) commended the Committee for its efforts to contribute to the effective implementation of the International Convention on the Elimination of All Forms of Racial Discrimination; (b) urged States that had not yet become parties to the Convention to ratify it or accede to it as a matter of urgency, with a view to achieving universal ratification by 2005; (c) requested States parties to the Convention to consider making the declaration provided for in article 14 thereof; (d) called upon States parties to fulfil their reporting obligation; (e) urged States parties to withdraw reservations that are contrary to the object and purpose of that Convention and to review their reservations on a regular basis with a view to withdrawing them; and (f) encouraged States parties to include a gender perspective in their reports to the Committee and invited the Committee to take into account a gender perspective in the implementation of its mandate.

586. Concerning the effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights, the Committee had before it the report of the fourteenth meeting of persons chairing the human rights treaty bodies (A/57/399 and Corr.1).

VIII. SUBMISSION OF REPORTS BY STATES PARTIES UNDER ARTICLE 9, PARAGRAPH 1, OF THE CONVENTION

A. Reports overdue by at least 10 years

587. The following States parties are at least 10 years late in the submission of their reports:

Sierra Leone	Fourth to seventeenth periodic reports (due from 1976 to 2002)
Liberia	Initial to thirteenth periodic reports (due from 1977 to 2001)
Guyana	Initial to thirteenth periodic reports (due from 1978 to 2002)
Gambia	Second to twelfth periodic reports (due from 1982 to 2002)
Togo	Sixth to fifteenth periodic reports (due from 1983 to 2001)
Somalia	Fifth to fourteenth periodic reports (due from 1984 to 2002)
Papua New Guinea	Second to eleventh periodic reports (due from 1985 to 2003)
Lao People's Democratic Republic	Sixth to fifteenth periodic reports (due from 1985 to 2003)
Solomon Islands	Second to eleventh periodic reports (due from 1985 to 2003)
Central African Republic	Eighth to sixteenth periodic reports (due from 1986 to 2002)
Mozambique	Second to tenth periodic reports (due from 1986 to 2002)
Afghanistan	Second to tenth periodic reports (due from 1986 to 2002)
United Republic of Tanzania	Eighth to fifteenth periodic reports (due from 1987 to 2001)
Barbados	Eighth to fifteenth periodic reports (due from 1988 to 2002)
Madagascar	Tenth to seventeenth periodic reports (due from 1988 to 2002)
Seychelles	Sixth to thirteenth periodic reports (due from 1989 to 2003)
Ethiopia	Seventh to fourteenth periodic reports (due from 1989 to 2003)
Congo	Initial to eighth periodic reports (due from 1989 to 2003)
Antigua and Barbuda	Initial to seventh periodic reports (due from 1989 to 2001)
Saint Lucia	Initial to seventh periodic reports (due from 1991 to 2003)
Maldives	Fifth to tenth periodic reports (due from 1993 to 2003)

B. Reports overdue by at least five years

588. The following States parties are at least five years late in the submission of their reports:

Bosnia and Herzegovina	Initial to fifth periodic reports (due from 1994 to 2003)
Zambia	Twelfth to sixteenth periodic reports (due from 1995 to 2003)
Turkmenistan	Initial to fourth periodic reports (due from 1995 to 2001)
Nigeria	Fourteenth to seventeenth periodic reports (due from 1996 to 2002)
Venezuela	Fourteenth to seventeenth periodic reports (due from 1996 to 2002)
Tajikistan	Initial to fourth periodic reports (due from 1996 to 2002)
Chad	Tenth to thirteenth periodic reports (due from 1996 to 2002)
Monaco	Initial to fourth periodic reports (due from 1996 to 2002)
El Salvador	Ninth to twelfth periodic reports (due from 1996 to 2002)
Nicaragua	Tenth to thirteenth periodic reports (due from 1997 to 2003)
Democratic Republic of the Congo	Eleventh to fourteenth periodic reports (due from 1997 to 2003)
Luxembourg	Tenth to thirteenth periodic reports (due from 1997 to 2003)
Malawi	Initial to fourth periodic reports (due from 1997 to 2003)
United Arab Emirates	Twelfth to fifteenth periodic reports (due from 1997 to 2003)
Burkina Faso	Twelfth to fifteenth periodic reports (due from 1997 to 2003)
Namibia	Eighth to tenth periodic reports (due from 1998 to 2002)
Bulgaria	Fifteenth to seventeenth periodic reports (due from 1998 to 2002)
India	Fifteenth to seventeenth periodic reports (due from 1998 to 2002)
Kuwait	Fifteenth to seventeenth periodic reports (due from 1998 to 2002)
Niger	Fifteenth to seventeenth periodic reports (due from 1998 to 2002)
Pakistan	Fifteenth to seventeenth periodic reports (due from 1998 to 2002)
Panama	Fifteenth to seventeenth periodic reports (due from 1998 to 2002)
Philippines	Fifteenth to seventeenth periodic reports (due from 1998 to 2002)
Serbia and Montenegro	Fifteenth to seventeenth periodic reports (due from 1998 to 2002)
Israel	Tenth to twelfth periodic reports (due from 1998 to 2002)
Guatemala	Eighth to tenth periodic reports (due from 1998 to 2002)
Mexico	Twelfth to fourteenth periodic reports (due from 1998 to 2002)

Swaziland	Fifteenth to seventeenth periodic reports (due from 1998 to 2002)
Belarus	Fifteenth to seventeenth periodic reports (due from 1998 to 2002)
Cameroon	Fourteenth to sixteenth periodic reports (due from 1998 to 2002)
The former Yugoslav Republic of Macedonia	Fourth to sixth periodic reports (due from 1998 to 2002)
Peru	Fourteenth to sixteenth periodic reports (due from 1998 to 2002)
Burundi	Eleventh to thirteenth periodic reports (due from 1998 to 2002)
Cambodia	Eighth to tenth periodic reports (due from 1998 to 2002)

C. Action taken by the Committee to ensure submission of reports by States parties

589. At its sixty-second and sixty-third sessions, the Committee reviewed the question of delays and non-submission of reports by States parties in accordance with their obligations under article 9 of the Convention.

590. At its forty-second session, the Committee, having emphasized that the delays in reporting by States parties hampered it in monitoring implementation of the Convention, decided that it would continue to proceed with the review of the implementation of the provisions of the Convention by the States parties whose reports were overdue by five years or more. In accordance with a decision taken at its thirty-ninth session, the Committee agreed that this review would be based upon the last reports submitted by the State party concerned and their consideration by the Committee. At its forty-ninth session, the Committee further decided that States parties whose initial reports were overdue by five years or more would also be scheduled for a review of implementation of the provisions of the Convention. The Committee agreed that in the absence of an initial report, the Committee would consider all information submitted by the State party to other organs of the United Nations or, in the absence of such material, reports and information prepared by organs of the United Nations. In practice the Committee also considers relevant information from other sources, including from non-governmental organizations, whether it is an initial or periodic report that is seriously overdue. The question of the extent to which conclusions communicated to the State party under the review procedure could be based upon that material remains a matter of ongoing discussion (see CERD/C/SR.1463).

591. Following its sixty-first session, the Committee decided to schedule at its sixty-second session a review of the implementation of the provisions of the Convention in the following States parties whose periodic reports were seriously overdue: Albania, Bahamas, Barbados, Guyana and Papua New Guinea. Albania was withdrawn from the list prior to the sixty-second session following the submission of a report. In the cases of Barbados, Guyana and Bahamas, the reviews were postponed at the request of the States parties which indicated their intention to submit the requested reports shortly.

592. Following its sixty-second session, the Committee decided to schedule at its sixty-third session a review of the implementation of the provisions of the Convention in the following States parties whose initial and periodic reports were seriously overdue: Bahamas, Bosnia and Herzegovina, Lao People's Democratic Republic, Malawi, Suriname, Tajikistan and Zambia. Zambia, Tajikistan and Bosnia and Herzegovina were postponed to a subsequent session on the undertaking of the State party to submit the requested reports within a one-year period.

593. The Committee again requested the Secretary-General to continue sending reminders automatically to those States parties whose reports were overdue.

IX. THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION; FOLLOW-UP TO THE WORLD CONFERENCE AGAINST RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE

594. The Committee considered the question of the follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the Third Decade to Combat Racism and Racial Discrimination at its sixty-second and sixty-third sessions.

595. At its sixty-second session, the Committee was informed of, and discussed, the first session of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action (see E/CN.4/2003/20) held from 21 to 31 January 2003 and, in particular, the mandate of the Working Group relating to the preparation of complementary international standards to strengthen and update international instruments against racism, racial discrimination, xenophobia and related intolerance in all their aspects. Following the recommendation of the Working Group, which encouraged "human rights mechanisms and treaty bodies having mandates to address racism, racial discrimination, xenophobia and related intolerance to participate in the discussions of the Working Group, within their respective mandates, and to provide information on their activities" (ibid., para. 33, recommendation 15), the Committee, during its sixty-third session, discussed its participation in the next meeting of the Working Group due to take place from 26 January to 4 February 2004. It decided to request that the Committee be duly represented at that meeting, in view of the fact that the International Convention on the Elimination of All Forms of Racial Discrimination is the main international legal instrument in that field.

X. OVERVIEW OF THE METHODS OF WORK OF THE COMMITTEE

596. An overview of the methods of work of the Committee was included in its report to the fifty-first session of the General Assembly.[1] It highlighted changes introduced in recent years and was designed to improve the Committee's procedures.

597. At its sixtieth session, the Committee decided to review its working methods at its sixty-first session and asked Mr. Valencia Rodríguez, convenor of an open-ended working group on this issue, to prepare and submit a working paper for consideration. The working paper submitted by Mr. Valencia Rodríguez was discussed and revised further by the Committee at its sixty-second and sixty-third sessions and adopted at the sixty-third session, with the exception of one paragraph which remains pending. The text of the paper as adopted can be found in annex IV.

598. The Committee had the opportunity to discuss its working methods further at the meeting with States parties held at its 1606th meeting, on 19 August 2003 (see CERD/C/SR.1606). The main issues raised and discussed during this meeting, which was attended by representative of 65 States parties, included: the possibility of the Committee's holding some of its meetings in New York; the adoption of lists of issues to be transmitted to States parties prior to the consideration of their initial or periodic reports by the Committee; the adoption of a mechanism to ensure adequate follow-up to the conclusions and recommendations addressed to States parties by the Committee after the consideration of their initial or periodic reports; the possibility of adopting general comments together with other treaty bodies; the individual and group complaints procedure provided in article 14 of the Convention; the issue of gender balance in treaty body membership; the discussion of concluding observations in open or closed meetings; and the reform proposals relating to the treaty body reporting procedure. In his concluding remarks, the Chairman of the Committee welcomed the large number of participants and thanked them for a very fruitful dialogue which would help the Committee to find solutions and improve its working methods.

Note

[1] *Official Reports of the General Assembly, Fifty-first Session, Supplement No. 18* (A/51/18), paras. 587-627.

XI. DECISIONS AND STATEMENTS

599. The following decisions and statements were adopted by the Committee at its sixty-second and sixty-third sessions:

A. Statement of 10 March 2003 on the current international situation

The Committee on the Elimination of Racial Discrimination,

Expressing itself within the framework of its mission of monitoring the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination,

Recalling the relevant provisions of the Charter of the United Nations, in particular the principles set out in its Article 2,

Alarmed at the worsening situation in the world since the terrorist attacks of 11 September 2001 and at the current threats of recourse to force in the Middle East,

Convinced that world stability and the whole system of collective security and protection of human rights which the United Nations has been building for more than half a century are placed at risk,

Recalling its condemnation of terrorism in all its forms and of its destructive effects on human rights,

1. *Draws the attention* of the international community to the devastating effects of any resort to war, not only at the military, economic, political and social level and in relation to the fate of civilian populations, but also because of the resurgence of the phenomena of racial and ethnic discrimination, xenophobia, intolerance, and even of terrorism, that could result;

2. *Calls upon* the Security Council and the international community to find a peaceful solution to the current crisis of compliance with the international legal order which is binding upon all.

1563rd meeting
10 March 2003

B. Decision 3 (63) on the amendment to article 8, paragraph 6

The Committee on the Elimination of Racial Discrimination,

Noting that, as of 13 August 2003, only 37 States parties to the International Convention on the Elimination of All Forms of Racial Discrimination have ratified the amendment to article 8 of the Convention whereas the amendment in question had been adopted by the States parties to the Convention as early as 1992 and was subsequently endorsed by the General Assembly in its resolution 47/111 of 16 December 1992, adopted without a vote,

Noting also that the General Assembly in its resolution 57/194 of 18 December 2002 strongly urged States parties to the Convention to accelerate their domestic ratification procedures with regard to the amendment in question, *Emphasizing* the importance of the amendment and the need for its entry into force as soon as possible in order to stabilize the financial situation of the Committee,

1. *Decides* to address an urgent appeal to all States parties to the International Convention on the Elimination of All Forms of Racial Discrimination to proceed with the ratification of the amendment to article 8 and to deposit their instrument of ratification with the Secretary-General at the earliest possible opportunity;

2. *Requests* the Secretary-General to bring the present decision to the attention of all States parties to the Convention;

3. *Suggests* to the General Assembly that it reiterate its own urgent appeal to all States parties to the Convention for an early ratification of the amendment to article 8 of the Convention and that it request those States to inform it of the action taken in implementation of the above-mentioned urgent appeal.

1597th meeting
13 August 2003

Annex I

STATUS OF THE CONVENTION

A. States parties to the International Convention on the Elimination of All Forms of Racial Discrimination (169) as at 22 August 2003*

Afghanistan, Albania, Algeria, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Benin, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Cape Verde, Central African Republic, Chad, Chile, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Democratic Republic of the Congo, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Eritrea, Estonia, Ethiopia, Fiji, Finland, France, Gabon, Gambia, Georgia, Germany, Ghana, Greece, Guatemala, Guinea, Guyana, Haiti, Holy See, Hungary, Honduras, Iceland, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Israel, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Latvia, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Maldives, Mali, Malta, Mauritania, Mauritius, Mexico, Monaco, Mongolia, Morocco, Mozambique, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Paraguay, Papua New Guinea, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Rwanda, Saint Lucia, Saint Vincent and the Grenadines, San Marino, Saudi Arabia, Senegal, Serbia and Montenegro, Seychelles, Sierra Leone, Slovakia, Slovenia, Solomon Islands, Somalia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Tajikistan, Thailand, The former Yugoslav Republic of Macedonia, Timor Leste, Togo, Tonga, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Uzbekistan, Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe.

B. States parties that have made the declaration under article 14, paragraph 1, of the Convention (43) as at 22 August 2003

Algeria, Australia, Austria, Azerbaijan, Belgium, Brazil, Bulgaria, Chile, Costa Rica, Cyprus, Czech Republic, Denmark, Ecuador, Finland, France, Germany, Hungary, Iceland, Ireland, Italy, Luxembourg, Malta, Mexico, Monaco, Netherlands, Norway, Peru, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Senegal, Serbia and Montenegro, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, The former Yugoslav Republic of Macedonia, Ukraine, Uruguay.

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* The following States have signed but not ratified the Convention: Andorra, Bhutan, Comoros, Grenada, Guinea-Bissau, Nauru and Sao Tome and Principe.

C. States parties that have accepted the amendments to the Convention adopted at the Fourteenth Meeting of States Parties* (37) as at 22 August 2003

Australia, Bahamas, Bahrain, Bulgaria, Burkina Faso, Canada, China, Colombia, Costa Rica, Cuba, Cyprus, Czech Republic, Denmark, Finland, France, Germany, Guinea, Holy See, Iceland, Iraq, Ireland, Liechtenstein, Mexico, Netherlands (for the Kingdom in Europe and the Netherlands Antilles and Aruba), New Zealand, Norway, Poland, Republic of Korea, Saudi Arabia, Seychelles, Sweden, Switzerland, Syrian Arab Republic, Trinidad and Tobago, Ukraine, United Kingdom of Great Britain and Northern Ireland, Zimbabwe.

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* For the amendments to enter into force, two thirds of the States parties to the Convention must accept it.

Annex II

AGENDAS OF THE SIXTY-SECOND AND SIXTY-THIRD SESSIONS

A. Sixty-second session (3-21 March 2003)

1. Adoption of the agenda.
2. Organizational matters and methods of work.
3. Prevention of racial discrimination, including early warning measures and urgent action procedures.
4. Consideration of reports, comments and information submitted by States parties under article 9 of the Convention.
5. Submission of reports by States parties under article 9, paragraph 1, of the Convention.
6. Follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance; Third Decade to Combat Racism and Racial Discrimination.
7. Consideration of communications under article 14 of the Convention.
8. Consideration of copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories and to all other territories in which General Assembly resolution 1514 (XV) applies, in conformity with article 15 of the Convention.

B. Sixty-third session (4-22 August 2003)

1. Approval by the Committee of the experts appointed by one State party to fill the vacancy resulting from the death of one member of the Committee.
2. Adoption of the agenda.
3. Organizational matters and methods of work.
4. Prevention of racial discrimination, including early warning measures and urgent action procedures.
5. Consideration of reports, comments and information submitted by States parties under article 9 of the Convention.
6. Submission of reports by States parties under article 9, paragraph 1, of the Convention.
7. Consideration of communications under article 14 of the Convention.

8. Consideration of copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories and to all other territories in which General Assembly resolution 1514 (XV) applies, in conformity with article 15 of the Convention.

9. Follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance; Third Decade to Combat Racism and Racial Discrimination

10. Report of the Committee to the General Assembly at its fifty-eighth session under article 9, paragraph 2, of the Convention.

Annex III

DECISIONS AND OPINIONS OF THE COMMITTEE UNDER ARTICLE 14 OF THE CONVENTION

A. Sixty-second session

Decision concerning communication No. 22/2002

Submitted by:	POEM and FASM (represented by counsel)
Alleged victim:	The petitioner
State party:	Denmark
Date of communication:	8 August 2001 (initial submission)

The Committee on the Elimination of Racial Discrimination, established under article 8 of the International Convention on the Elimination of All Forms of Racial Discrimination,

Meeting on 19 March 2003,

Having concluded its consideration of communication No. 22/2001, submitted to the Committee under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination,

Having taken into consideration all written information made available to it by the author and the State party,

Bearing in mind rule 95 of its rules of procedure requiring it to formulate its opinion on the communication before it,

Adopts the following:

Decision on admissibility

1. The authors of the communication (hereafter, the petitioners), dated 8 August 2001, are POEM (Umbrella Organization for the Ethnic Minorities) and FASM (Association of Muslim Students). They claim a violation by Denmark of article 2, paragraph 1 (d), article 4 and article 6 of the Convention. They are represented by counsel.

The facts as presented by the petitioners

2.1 The first petitioner, the Umbrella Organization for the Ethnic Minorities (hereafter, POEM), is a Danish organization that promotes ethnic equality in all spheres of society including through full civil and political rights for ethnic minorities. The organization currently comprises 30 members representing most of ethnic and national minorities in the State party.

2.2 The second petitioner, the Association of Muslim Students (hereafter, FASM), is also a Danish organization that raises awareness on Muslim issues and deals with the negative effects caused by - so called - Islamophobic politicians and the media on the image of Islam. The organization currently comprises more than 100 members, all students and practising Muslims students who, for the most part, were born and raised in Denmark.

2.3 POEM represents a number of Muslim organizations and other organizations which, although not Muslim, comprise members of ethnic and national groups with a Muslim background. FASM is an all-Muslim organization. Therefore, when Islamophobic and other prejudicial statements against Muslims are made public, both the petitioners and their members, including the non-Muslims, are affected.

2.4 The incident of racial discrimination raised by the petitioners relates to a statement made by the leader of the Danish People's Party (Dansk Folkeparti, hereafter DPP) and member of Parliament, Pia Kjærsgaard, on 19 June 2000 in her weekly newsletter which was disseminated on the party's web site and through a press release:

> "Behind this lurks the phenomenon which becomes ever more obvious in all its horror: that the multiculturalization of Denmark brings trouble in its train like gang and group formation, mass rape and complete indifference to the principles on which the Danish legal system is built.
>
> "...
>
> "The phenomenon of mass rape is also new in a Danish context and is linked with a cultural perception of Danish girls as prostitutes who can be defiled without shame, while the same boys and guys are brought up to murder a sister if she breaches the family and cultural codes."

2.5 On 20 June 2000, the Documentation and Advisory Centre on Racial Discrimination (DRC) reported the statement to the Copenhagen Police, alleging a violation of section 266 (b) of the Criminal Code (hereafter, section 266 (b)).[a]

2.6 By letter of 21 July 2000, the Copenhagen Police informed the DRC that the case was discontinued. This decision indicated that, according to the *travaux préparatoires* of the provision, the purpose of section 266 (b) is neither to limit the topics that can make the object of a political debate nor to decide the way these topics are addressed. Political statements, although they may be perceived by some as offending, are part of a dialectic where, traditionally, there are wide limits to the use of generalization and simplified allegations. The above-mentioned weekly newsletter consists in an observation on the scale of penalties for crimes of violence, which is legitimate in a political debate. Finally, although the statement could be considered as offensive, an important weight should be given in the present case to considerations related to the freedom of expression and of political debate.

2.7 By letter of 21 August 2000, the DRC requested that the case be brought before the Regional Public Prosecutor. The DRC argued that statements similar to that made by Pia Kjærsgaard had led to convictions and that neither the *travaux préparatoires* of section 266 (b) nor article 4 of the Convention provided for an extended freedom of expression for members of Parliament or for observations made in a political debate. The petitioners are therefore of the opinion that statements forming part of a serious debate should be assessed regardless of whom has made them.

2.8 By letter of 31 August 2000, the Regional Public Prosecutor upheld the decision of the Copenhagen Police. He stressed that he had carefully considered the balance between the insulting character of the statement and the right to freedom of expression and that it must be accepted, to a certain degree, that, in order to secure a free and critical debate, statements may be offending to individuals or groups. Regardless of the degrading and insulting character of the statement for individuals of a different cultural background, the allegations made in the statement are not serious enough to justify a derogation from the freedom of expression.

2.9 By letter of 4 October 2000, the DRC wrote to the Director of Public Prosecutions and requested a review of the Regional Public Prosecutor's decision of 31 August 2000. The DRC also requested an opinion on the question of the existence of an extended freedom of expression for members of Parliament and for observations being made in a political debate. The DRC further asked whether the Regional Public Prosecutor's decision was consistent with the Danish judicial practice and obligations under the Convention.

2.10 By letter of 8 February 2001, the Director of Public Prosecutions decided that there were no grounds for reviewing the decision of the Regional Public Prosecutor.

The complaint

Exhaustion of domestic remedies

3.1 The petitioners argue that, according to section 749, paragraph 1, of the State party's Administration of Justice Act, the police decides whether it will investigate the reported incidents. The decision may be referred to the Regional Public Prosecutor and his/her decision is final. Nevertheless, the State party itself stated in its fourteenth periodic report to the Committee that all cases related to section 266 (b) should be notified to the Director of Public Prosecutions. The petitioners have thus made such a notification in order to exhaust all domestic remedies.

3.2 The petitioners also contend that a direct legal action against Pia Kjærsgaard would not be effective in the absence of further investigation by the police or Regional Public Prosecutor. Moreover, the State party's Eastern High Court decided on 5 February 1999 that an incident of racial discrimination does not in itself imply a violation of the honour and reputation of a person under section 26 of the Act of Civil Liability.

Alleged violation of article 2, paragraph 1 (d), together with article 6

3.3 The petitioners allege that the State party has violated its obligations under article 2, paragraph 1 (d), taken together with article 6 of the Convention because, the Director of Public Prosecutions having the exclusive competence to initiate legal action in this type of incident, the alleged victims of such an incident are not entitled to bring the case before a court, and have therefore no means of redress, if the Director of Public Prosecutions discontinues a case.

3.4 The petitioners refer to the decision in case No. 4/1991 (*L.K. v. The Netherlands*) where the Committee emphasized that States parties have a positive obligation to take effective action against reported incidents of racial discrimination.

3.5 Referring also to the fourteenth periodic report of the State party to the Committee, the petitioners complain that while all cases in which a provisional charge has been brought under section 266 (b) must be submitted for decision to the Director of Public Prosecutions, those that are rejected without a provisional charge are only notified to the same authority. Moreover, the petitioners contend that there is, in the State party's procedure related to acts of racial discrimination, an inequality of arms, because in cases where charges have been brought, both the Regional Public Prosecutor and the Director of Public Prosecutions have a right to review the decision, while in cases where no charge is brought, the case is only brought to the Regional Public Prosecutor.

Alleged violation of article 2, paragraph 1 (d), together with articles 4 and 6

3.6 The petitioners allege that the State party has violated its obligations under article 2, paragraph 1 (d), taken together with articles 4 and 6 of the Convention because, the decision of the Director of Public Prosecutions implying that the initial decision of the Copenhagen Police is in compliance with article 266 (b), the State party allows an extended right to freedom of expression for members of Parliament and for observations being made during a political argumentation, regardless whether statements are racist or prejudicial.

3.7 In this regard, the petitioners point out to the State party's thirteenth periodic report where it was stated:

> "24. Section 266 (b) of the Penal Code, which is described in detail in Denmark's last periodic report (paras. 34-41), was amended by Act No. 309 of 17 May 1995 with the addition of a new subsection 2, according to which it must be considered an aggravating circumstance when meting out the punishment 'that the count is in the nature of propaganda'. The amendment entered into force on 1 June 1995.
>
> "25. During the readings of the bill in the Danish parliament (Folketinget) it was declared that in these especially aggravated cases the prosecutors should not in future exhibit the same restraint with regard to prosecuting as previously.
>
> "26. Whether 'propaganda' is present in a specific case will depend on an overall assessment stressing in particular whether there has been a systematic dissemination of discriminating statements, etc., including dissemination to foreign countries, with a view to influencing public opinion. It could speak in favour of referring a count to section 266 (b) (2) if the violation was committed by several persons jointly, especially if the persons in question belong to the same party, association or other organization, and manifestations of the relevant nature form part of the activities of the organization in question. Also, a more extensive dissemination of statements may speak in favour of applying section 266 (b) (2). In this respect it is relevant whether the statements were put forward in a medium involving greater dissemination, for example a printed publication, radio, television or another electronic medium."

3.8 In order to illustrate the State party's practice in this regard, the petitioners explain that the founder of the extreme right wing "Progress Party" (Fremskridtsparteit), Mogens Glistrup, although he made continuous allegations that could have fallen under section 266 (b), was never charged under the said provision before he left the Parliament. On 23 August 2000, no longer a member of Parliament, Mogens Giltrup was convicted by the Supreme Court under section 266 (b) (1) to seven days' conditional imprisonment for racist allegations made on television, but was not convicted under section 266 (b) (2). The petitioners underline that the Court then held that the consideration of an extended right to freedom of expression for politicians concerning controversial public matters could not constitute a basis for acquitting the defendant.

3.9 With regard to Pia Kjærsgaard, the petitioners argue that, on 27 August 1998, she wrote the following statement in a weekly newspaper:

> "The majority of our foreign citizens come from Africa and Asia, and this group is by and large Mohammedan. … and in addition to this comes a long series of expenses for aliens, such as expenses to maintain public law and order and security. … I maintain the point that the expenses incurred by aliens - and not the private consumption of Danish citizens - is the ultimate and decisive cause of the destruction of the Danish Welfare State. … Immigrants are to a large extent not capable of supporting themselves, just as aliens are far more criminal than the average population."

3.10 In another weekly newsletter, of 25 April 2000, where she compared Muslim parliamentary candidates with Lenin who used the support of minor socialist parties and brutally crushed them once in power, Pia Kjærsgaard held:

> "Thus a fundamentalist Muslim does in fact not know how to act [in dignity and in a cultivated way] in accordance with Danish democratic traditions. He simply does not have a clue about what it means. Commonly acknowledged principles such as speaking the truth and behaving with dignity and culture - also towards those whom you do not sympathize with - are unfamiliar ground to people like of M.Z."

3.11 By contrast, a few members of the youth branch of the DPP were charged with violation of section 266 (b) for having published the following ad: "*Mass rapes - gross violence - insecurity - forced marriages - suppression of women - gang crime. That is what a multi-ethnic society has to offer us. Is that what you want?*"

3.12 The work of the Progress Party and of the DPP having been for three decades to promote a restrictive immigration policy - particularly concerning Muslims - mainly based on Islamophobia, the petitioners consider that it constitutes propaganda for racial hatred against Muslims in Denmark. It is thus the opinion of the petitioners that when the State party grants an extended freedom of expression to parliamentarians, who are protected from prosecutions, it allows racist propaganda and does not provide Muslims with sufficient protection.

Alleged violation of articles 4 and 6 of the Convention

3.13 The petitioners allege that the State party has violated its obligations under articles 4 and 6 of the Convention because, the Copenhagen Police having failed to carry out a proper investigation, the petitioners have been deprived of the opportunity to establish whether their rights under the Convention had been violated. The State party has therefore failed to provide the petitioners with effective protection against racial discrimination.

3.14 Referring to case No. 16/1999 (*Kashif Ahmad v. Denmark*), the petitioners stress that while the incidents were reported on 20 June 2000, the decision of the police was transmitted a month later, on 21 July 2000. Similarly, the Attorney-General decided to uphold the police's decision 10 days after the case was brought to his attention by the DRC. The petitioners argue that it is highly unlikely that the Regional Public Prosecutor could investigate the matter and carry out an investigation in 10 days, in particular in order to assess the existence of "propaganda" and to investigate all previously reported incidents concerning Pia Kjærsgaard. They further mention that they have never been questioned by the authorities in relation to their complaint.

3.15 To further support this allegation, the petitioners emphasize that the Regional Public Prosecutor has not responded properly to the different arguments developed in the complaint, the decision merely referring to the Copenhagen Police's decision and reproducing almost standard paragraphs. This demonstrates that the Regional Public Prosecutor did not investigate the matter.

Alleged general violation of the Convention

3.16 The petitioners argue that the State party has failed to comply with the principles of the Convention as a whole because it provides for more extensive protection for victims of defamation than for victims of racial discrimination.

3.17 While according to the Public Prosecution, political statements of a nature similar to that of the present case should be seen as legitimate contributions to the general political debate, the petitioners stress that, by contrast, a journalist, Lars Bonnevie, who wrote that Pia Kjærsgaard was promoting "apparent racist views", was convicted of defamation and sentenced to a fine and compensation.

3.18 In conclusion, the petitioners request the Committee to recommend to the State party to carry out a full investigation of this case and pay appropriate compensation to the victims.

Observations by the State party

4.1 By submission of 28 January 2002, the State party made its observations on the admissibility and merits of the case.

On the admissibility

4.2 The State party considers that the communication should be declared inadmissible *ratione personae* under article 14, paragraph 1, of the Convention because the petitioners are legal persons and not individuals or groups of individuals. It refers in this respect to the jurisprudence of the Human Rights Committee in cases Nos. 502/1992 and 737/1999. Moreover, the fact that the petitioners comprise a certain number of members and work for the interests of Muslims and other ethnic minorities does not entitle them to submit a communication under article 14 of the Convention.

4.3 Moreover, the petitioners have not submitted powers of attorney from one or more individuals claiming to be victims of a violation and authorizing them to submit such a communication.

4.4 Finally, the State party argues that the petitioners have not participated in the domestic proceedings. The report of 20 June 2000 was only made by the DRC who later on appealed to the Regional Public Prosecutor on behalf of seven named individuals.

On the merits

Alleged violation of article 2, paragraph 1 (d) together with article 6

4.5 With regard to the alleged violation of article 2, paragraph 1 (d), together with article 6, the State party is of the opinion that it cannot be inferred from the Convention that investigations should be carried out in situations which do not require it and consider that the Danish authorities have therefore fulfilled their obligations.

4.6 Furthermore, the State party considers that although proceedings in cases of alleged racial discrimination have to be carried out in compliance with the provisions of the Convention, the Convention does not specify which authority should decide to initiate prosecution or at what level of the hierarchy the decision should be taken.

4.7 For the same reasons, the State party argues that the notification of the case to the Director of Public Prosecutions cannot raise an issue under the Convention and has the aim only of ensuring a uniform prosecution practice and to collect case law in the field.

Alleged violation of article 2, paragraph 1 (d), together with articles 4 and 6

4.8 With regard to the alleged violation of article 2, paragraph 1 (d), together with articles 4 and 6, the State party contends that article 4 of the Convention provides that States parties undertake to declare any dissemination of ideas based on racial superiority or hatred an offence punishable by law but that States parties shall, at the same time, act according to article 19 of the Universal Declaration of Human Rights as well as article 5 (d) (viii) of the Convention.

4.9 The State party considers that the allegations made by the petitioners according to which the absence of conviction of Mogens Glistrup under section 266 (b) (2) implies that racist propaganda is accepted in Denmark was not substantiated, as the petitioners do not refer to particular incidents that have been reported to the police without any result. Moreover, in relation to the Supreme Court's judgement referred to by the petitioners, the State party indicates that since the charges under section 266 (b) (2) have been dismissed on procedural grounds, the judgement cannot be considered as reflecting an acceptance in Denmark of racist propaganda made by politicians.

4.10 The State party further explains that section 266 (b) has been amended in order to comply with its obligations under article 4 of the Convention. Concerning the relationship to the freedom of expression, it is mentioned in the *travaux préparatoires* that:

> "On the other hand it is necessary to give due regard to the freedom of expression which should apply, also in comments on racial groups, etc., and which article 4 of the Convention had in view, among other things by its reference to the Universal Declaration of Human Rights. In this regard, it should first be mentioned that, according to the draft, the criminal offences are limited to statements and other messages made 'in public or with intent to dissemination to a wider circle'. Furthermore, the statements referred to above - particularly the words 'insulted or exposed to indignities' - must be interpreted to mean that offences of minor gravity are kept outside the criminal field. Outside the provision fall scientific theories put forward on differences of race, nationality or ethnicity, which presumably the Convention cannot have been intended to encompass. As mentioned above … there will probably also, concerning statements that were not made in a scientific context proper, but otherwise as part of an objective debate, be occasion to reckon with an area of impunity" (emphasis added by the State party).

4.11 Therefore, the State party has to apply section 266 (b) taking into account the offender's right to freedom of expression as set forth in article 19 of the International Covenant on Civil and Political Rights and article 10 of the European Convention on Human Rights.

4.12 The State party refers thereafter to a number of cases decided by the European Court of Human Rights, stating that the latter attaches an important weight to freedom of expression, especially when expressions are made as part of a political or social debate. In the case *Jersild v. Denmark* concerning a journalist who had been convicted under section 266 (b) for having made racist statements, the European Court of Human Rights held that the protection against racist statements had to be balanced against the freedom of expression. Concerning the relationship with the Convention, the Court stated that:

> "Denmark's obligation under article 10 [of the European Convention] must be interpreted, to the extent possible, so as to be reconcilable with its obligation under the United Nations Convention. In this respect it is not for the Court to interpret the 'due regard' clause in article 4 of the United Nations Convention, which is open to various constructions. The Court is however of the opinion that its interpretation of article 10 of the European Convention in the present case is compatible with Denmark's obligations under the United Nations Convention."

4.13 This balance is also made in the State party's case law. In the above-mentioned Supreme Court's case concerning Mogens Glistrup, the court found that Glistrup's statements could not objectively be justified and the extensive freedom of expression for politicians could not lead to acquittal in this case.

4.14 The State party then explains that the newsletter of 19 June 2000 was related to the level of punishment in case of rape and gang rape following the case of a 14-year-old girl who had been raped by several men of non-Danish ethnic background. The debate took place in the context of a proposed legislative amendment purporting to increase the punishment for rape committed by several perpetrators jointly and attracted great public interest.

4.15 The State party finds that the statement made by a member of Parliament should be considered therefore as part of the public debate on this issue and is not of the same aggravated nature as the statements for which Mogens Glistrup was convicted by the Supreme Court.

4.16 The State party further considers that the content of the statement made in the newsletter is not disproportionate to the aim pursued, which is to take part in the debate on the issue of punishment for certain offences. The Copenhagen Police and the Regional Public Prosecutor thus made a correct balancing between article 4 of the Convention and the right to freedom of expression by deciding in advantage of the latter.

Alleged violation of articles 4 and 6 of the Convention

4.17 With regard to the alleged violation of articles 4 and 6 of the Convention, the State party considers that the question that had to be decided by the relevant authorities was whether Pia Kjærsgaard had violated section 266 (b) because of the statement made in the newsletter of 19 June 2000. It did not concern other statements from this person nor did it concern generally the principle of the scope of freedom of expression for members of Parliament.

4.18 Concerning the obligation to investigate acts of racial discrimination, the State party, referring to a number of decisions taken by the Committee, considers that the investigation conducted by the police in the present case fully satisfied the obligations that can be inferred from the Convention. On the basis of the report made by the DRC, another report was drafted and no further investigative steps were taken because the decision consisted in a legal assessment of the content of the newsletter, i.e. whether it constituted a violation of section 266 (b).

4.19 The State party also indicates that the petitioners were not questioned because they were not part of the domestic proceedings and that neither the DRC nor the seven persons named by the latter were questioned because such interviews were not relevant for the investigation, as the outcome of the case depended solely on a legal assessment.

4.20 The same argumentation is valid for the decision taken by the Regional Public Prosecutor.

4.21 Moreover, the State party considers that, since the statements were not considered to be in violation of section 266 (b) (1), neither the Copenhagen Police nor the Regional Public Prosecutor should consider whether propaganda in the sense of section 266 (b) (2) was involved, because this subsection only provides for an aggravating circumstance of acts under section 266 (b) (1).

Alleged general violation of the Convention

4.22 Concerning the alleged general violation of the Convention because individual victims of defamation would be better protected than groups of victims of defamation, degradation and insults, the State party contends that the object of the legal provisions on defamation is to protect the honour of specific individuals against offensive words and acts while the object of section 266 (b) is to protect groups of persons who are threatened, insulted or exposed to indignities on the grounds of race, colour, national extraction, ethnic origin, religion or sexual orientation. The two provisions are applied differently in view of their different contents and purposes.

4.23 Furthermore, the provisions complement each other as, for example, an individual can be charged for defamation even if the conditions for a charge under section 266 are not met.

Author's comments

5.1 By submission of 14 May 2002, the petitioners made their comments on the State party's observations.

5.2 With regard to the admissibility of the communication, the petitioners are of the opinion that article 14 of the Convention does not prevent non-governmental organizations from submitting communications to the Committee. Contesting that POEM and FASM are legal persons, they argue that these organizations are non-governmental organizations which represent a group of people and are thus entitled to submit a communication under article 14.

5.3 The petitioners further contend that the objective of article 14 is to exclude communications from individuals who are not subject to the jurisdiction of the State party. The petitioners consider also that article 14 of the Convention should be interpreted along the terms of article 34 of the European Convention on Human Rights,[b] which expressly provides for the right for non-governmental organizations to apply before the European Court of Human Rights.

5.4 Alternatively, the petitioners note that the powers of attorney from individual members of POEM and FASM, submitted together with their present comments, make clear that those individuals as well as the organizations that represent them appointed the DRC to submit the communication to the Committee.

5.5 With regard to the alleged violation of article 2, paragraph 1 (d), together with article 6, the petitioners maintain that cases concerning section 266 (b) are treated differently depending on whether the police intends to dismiss a report or to prosecute.

5.6 The petitioners explain that if the Regional Public Prosecutor had decided to charge Pia Kjærsgaard, she would have been entitled to receive a third opinion on the matter since the Director of Public Prosecutions takes the final decision in such cases. By contrast, the alleged victims do not have the same right if the Regional Public Prosecutor decides to dismiss the case. The Director of Public Prosecutions will only be notified of the decision to dismiss. In the opinion of the petitioners, this constitutes a differential treatment that is incompatible with the Convention and, in particular, with article 2, paragraph 1 (d).

5.7 With regard to the alleged violation of article 2, paragraph 1 (d), together with articles 4 and 6, the petitioners agree with the State party and the European Court of Human Rights decision in *Jersild v. Denmark* that a fair balance has to be assessed between freedom of expression and protection against racist statements. However, in the present case, it appears that the Regional Public Prosecutor found that the statement was degrading and insulting to individuals with another ethnic background but that it was not severe enough to limit the freedom of expression. The petitioners consider that the Regional Public Prosecutor should have decided that the statement fell under section 266 (b), alongside a precedent judgement of 10 April 1996 in a similar case. In the present case, freedom of expression could not constitute a justification to dismiss the case.

5.8 The petitioners therefore conclude that politicians in Denmark are entitled to make statements that fall under section 266 (b) without being charged while others, non-politicians, would be charged for similar statements. The petitioners asked the Director of Public Prosecutions to comment on this point of view which they consider as having no justification and being contrary to article 2, paragraph 1 (d), article 4 and 6 of the Convention.

5.9 The petitioners further indicate that, while they do not dispute that the European Court gives a wider margin to freedom of expression for politicians, the same holds true for journalists. In this regard, they refer again to the case of Lars Bonnevie who was convicted of defamation on 29 April 1999 for having claimed that Pia Kjærsgaard was promoting "apparent racist views". In the same vein, the petitioners refer to a decision of the Court of Arhus which convicted a politician, Karen Sund, for having stated that "[o]ne cannot cooperate with the Danish People's Party because the leader of the party has a racial point of view".

5.10 Finally, the petitioners contend that it is for the courts to draw the line between freedom of expression and protection from racist remarks and not the police or the Regional Public Prosecutor. This is even more justified, because of the independence of the judiciary, in cases where the alleged offender is a politician.

5.11 With regard to the alleged violation of articles 4 and 6, the petitioners reiterate that the case has not been investigated thoroughly and individually.

Issues and proceedings before the Committee

6.1 Before considering any claims contained in a communication, the Committee on the Elimination of Racial Discrimination must decide, pursuant to article 14 of the Convention and rules 86 and 91 of its rules of procedure, whether or not the communication is admissible.

6.2 The Committee notes the State party's argument that none of the petitioners were plaintiffs in the domestic proceedings and that the report to the Copenhagen Police was only submitted by the DRC.

6.3 The Committee considers that it is a basic requirement under article 14, paragraph 7 (a), that domestic remedies have to be exhausted by the petitioners themselves and not by other organizations or individuals. The Committee finds, therefore, that communication is inadmissible under article 14, paragraph 7 (a), of the Convention.

7. Notwithstanding the above, the Committee calls the State party's attention to the content of paragraph 115 of the Programme of Action adopted by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in Durban, South Africa, on 8 September 2001, which "underlines the key role that politicians and political parties can play in combating racism, racial discrimination, xenophobia and related intolerance and encourages political parties to take concrete steps to promote equality, solidarity and non-discrimination in society, inter alia by developing voluntary codes of conduct which include internal disciplinary measures for violations thereof, so their members refrain from public statements and actions that encourage or incite racism, racial discrimination, xenophobia and related intolerance".

Notes

[a] Section 266 (b) of the Danish Criminal Code reads:

> "1. Any person who publicly or with the intention of disseminating it to a wide circle of people, makes a statement or imparts other information threatening, insulting or degrading a group of persons on account of their race, colour national or ethnic origin, belief or sexual orientation shall be liable to a fine or imprisonment for any term not exceeding two years.
>
> "2. When a sentence is meted out, the fact that the offence is in the nature of propaganda activities shall be considered an aggravating circumstance."

[b] Article 34 of the European Convention on Human Rights reads:

> "The Court may receive applications from any person, non-governmental organization or group of individuals claiming to be the victim of a violation by one of the High Contracting Parties of the rights set forth in the Convention or the protocols thereto. The High Contracting Parties undertake not to hinder in any way the effective exercise of this right."

Decision concerning communication No. 24/2002

Submitted by: Nikolas Regerat et al. (represented by counsel, Ms. Yolanda Molina Ugarte)

Alleged victims: The petitioners

State party: France

Date of communication: 3 August 2001 (date of initial letter)

Decision on admissibility

1. The petitioners are Mr. Nikolas Regerat, Mr. Mizel Alibert, Ms. Annie Bacho, Ms. Kattin Bergara, Mr. Jakes Bortayrou, Ms. Maritxu Castillon, Mr. Jean-Michel Ceccon, Mr. Txomin Chembero, Ms. Maialen Errecart, Ms. Irene Ithursarry and Mr. Emmanuel Torree, French citizens residing in France. As members of the Euskal Herriko Alfabetatze Euskalduntze Koordinakundea (AEK) Association, they claim to be victims of a violation by France of article 1 of the Convention. They are represented by counsel.

The facts as presented by the petitioners

2.1 The AEK Association (hereinafter referred to as "the Association") is an organization which teaches the Basque language to adults. In order to publicize its existence and activity, the Association regularly engages in publicity campaigns through the post, addressing its mailings in the Basque language.

2.2 To this end, the Association concluded with the Post Office a standard contract for mass mailings. This agreement, called "*Postimpact mécanisable*", is reserved for commercial mailings. The preferential rate is based on the possibility of automatic mail processing by a sorter equipped with a laser scanner. The scanner requires that mailings conform to specific regulations concerning message content and the format of the mailed item.

2.3 After first having benefited from a preferential rate of 1.87 French francs for each item, the Association was informed by the Post Office in May 1998 that in future the rate would be higher - 2.18 francs for each item - because the names of the villages that appeared on the envelopes were written in the Basque language. The Post Office pointed out that, unlike mail addressed in French, mail addressed in a regional language could not be processed automatically and entailed an additional cost over and above the preferential rate.

2.4 On 18 February 1999, the President of the Association, Mr. Nikolas Regerat, lodged a complaint against the Post Office in the Bayonne Correctional Court, considering that the Post Office's failure to maintain the agreed preferential rate constituted discrimination.

2.5 In its judgement of 3 June 1999, the Bayonne Correctional Court acquitted the Post Office of the offence of discrimination and dismissed the demand, made by the Association as a party to the proceedings, that the Post Office be ordered to pay damages. The court pointed out that it had not been established that the Post Office had changed its rate for the Association's mass mailings for one of the reasons set out in article 225-1 of the Penal Code, which deals with the offence of discrimination.[a] The court considered that the Post Office had changed the rate for purely technical reasons.

2.6 On 9 and 10 June 1999, the Association and the public prosecutor lodged an appeal against the judgement. On 21 June 2000, the Pau Court of Appeal acquitted the Post Office of the offence of discrimination and dismissed the Association's claims.[b]

2.7 On 22 June 2000, the Association appealed to the Court of Cassation. On 16 January 2001, the Court of Cassation dismissed the appeal and notified the Association of its decision in a letter dated 27 February 2001 from the public prosecutor of the Pau Court of Appeal.

2.8 On 6 July 2000, the Association made a request for legal aid. In its decision of 14 December 2000, the legal aid office denied the request, considering that "no serious argument for quashing can be brought against the contested decision". On 22 January 2001, the Association lodged an appeal against this denial with the first president of the Court of Cassation.[c] In his decision of 8 February 2001, the First President of the Court of Cassation dismissed the appeal on the grounds that the examination of the evidence submitted in the proceedings had not given rise to any serious argument for quashing the contested decision.

The complaint

3.1 The petitioners challenge the Post Office's position. They point out that the Association has to use the Basque language, particularly in its relations with its targeted public, in order to disseminate its objectives and activities for promoting the Basque language. According to the petitioners, since the Post Office is responsible for providing a public service, its imposition of higher rates for correspondence addressed in the Basque language discriminates against the speakers of that language and persons belonging to the Basque ethnic group.

3.2 In addition, the petitioners reject the technical argument put forward by the Post Office, which was upheld by the French courts. They consider that it is technologically simple to add the 158 names of the Basque villages to the computers that control the automatic sorting of mail, and that the Post Office's updating of its computer facilities for that purpose would entail only minimal difficulty and not unreasonable cost.

3.3 The petitioners therefore consider that the Post Office's discriminatory behaviour constitutes a violation of article 1 of the Convention.

3.4 Finally, the petitioners consider that all available domestic remedies have been exhausted.

The State party's observations on admissibility

4.1 In its observations dated 29 May 2002, the State party challenges the admissibility of the communication.

4.2 It maintains that the petitioners have not exhausted domestic remedies. In the case in point, the Association had, in the Bayonne Correctional Court and the Pau Court of Appeal, put forward the argument of alleged discriminatory practice in contravention of the provisions of French penal law. According to the State party, the Association had not adduced any argument to support its appeal to the Court of Cassation. The lack of an argument to support the appeal had led the criminal division of the Court of Cassation to dismiss the appeal in its ruling of 16 January 2001.

4.3 In this regard, the State party points out that legal aid to the Association had in fact been granted on a provisional basis on 11 July 2000, and that the Jean-Pierre Ghestin SCP[d] had been designated for that purpose. Subsequently, pursuant to the decision of the legal aid office of the Court of Cassation issued on 14 December 2000 and communicated on 21 December 2000, the request had been definitively denied on the grounds of the provisions of article 7 of the Act of 10 July 1991, considering that "no serious argument for quashing can be brought against the contested decision".

4.4 The State party explains that the system of legal aid in France has been designed to reconcile the right of the most disadvantaged to a defence with the interest of the effective administration of justice, which should not be hindered by dilatory or manifestly unfounded claims. A legal aid system cannot operate without a mechanism that allows it to select cases that are likely to receive legal aid.

4.5 This system was introduced by Act No. 91-647 of 10 July 1991 and its Implementing Decree No. 91-1266 of 19 December 1991, which were in force when the Association appealed to the Court of Cassation. Article 2 of the Act provides that "physical persons who do not have sufficient resources to assert their rights in court may benefit from legal aid. ... Such aid may, in exceptional cases, be granted to non-profit corporate bodies based in France and lacking sufficient resources".

4.6 The State party points out that although, when an appeal is brought before the criminal division of the Court of Cassation, the request for legal aid does not affect the time limits for the filing of the brief, article 20 of the above-mentioned Act nonetheless acknowledges that "in urgent cases ... legal aid may be granted on a provisional basis ...". The petitioners were in fact granted aid on a provisional basis. In this regard, the State party emphasizes that the advocate in council appointed on a provisional basis to provide legal aid did not deem it appropriate to put forward any argument in support of the appeal, as the Court of Cassation pointed out in its ruling.

4.7 Moreover, nothing prevented the Association, as the party bringing its case before the Court of Cassation, from filing a brief itself, adducing all the legal arguments it deemed relevant in support of its appeal. Pursuant to article 584 of the Code of Criminal Procedure, "The party appealing to the Court of Cassation, either at the time of its declaration, or within the following 10 days, may file, with the registry of the court that handed down the contested decision, a signed brief containing its arguments for quashing the decision." According to the State party, the Association cannot plead ignorance in order to justify its failure to file a personal brief since, during the appeal process, it was assisted by a counsel who could not have been unaware of the legal regulations governing the forms or conditions of appeals and who should have informed his clients of the procedural formalities that had to be observed.

4.8 Consequently, the petitioners who today are claiming before the Committee discrimination under article 1 of the Convention, owing to the rates applied by the French Post Office, did not enable the Court of Cassation to respond to their allegations. The communication therefore does not meet the requirements of article 14, paragraph 7 (a), of the Convention.

Comments by the petitioners on the State party's observations on admissibility

5.1 In their comments dated 31 January 2003, the petitioners challenge the State party's conclusions concerning the non-exhaustion of domestic remedies.

5.2 They contend that they were unable to support their appeal in the Court of Cassation because their request for legal aid had been denied. The participation of a lawyer in the Court of Cassation - a lawyer specializing exclusively in such courts - was essential and was the best way of ensuring an effective defence.

5.3 They also maintain that they did not have an effective domestic remedy since, on two occasions, the legal aid office of the Court of Cassation and the First President of the Court of Cassation considered that no serious argument for quashing the decision could be adduced.

Issues and proceedings before the Committee

6.1 Before considering any claim contained in a communication, the Committee on the Elimination of Racial Discrimination must, in accordance with rule 91 of its rules of procedure, decide whether or not it is admissible under the Convention.

6.2 The Committee notes the State party's claim that the complaint by the petitioners is inadmissible owing to the non-exhaustion of domestic remedies, insofar as no argument - particularly that of discrimination - was put forward to support their appeal before the Court of Cassation. The petitioners replied that their appeal could not be upheld because their request for legal aid had been denied and that, moreover, the decisions to deny legal aid, which were based on the absence of a serious argument for quashing, deprived them of an effective domestic remedy.

6.3 The Committee notes, in the first place, that the petitioners did not file a personal brief in support of their appeal in cassation, a right provided under article 584 of the Code of Penal Procedure and which they did not use in spite of the assistance of a counsel - during the appeal process - who should have informed them of the procedural rules for their appeals. In the second place, the Committee notes that, from 11 July 2000, the petitioners had the services of an advocate in council appointed on a provisional basis to provide legal aid and that the latter did not deem it appropriate to put forward, in the Court of Cassation, any argument in support of the appeal, a fact that the petitioners do not dispute. The Committee considers that, on the above-mentioned grounds, the subsequent definitive denial of the request for legal aid did not in any way bind the Court of Cassation with respect to its decision regarding the petitioners' appeal; that the petitioners' reservations as to the effectiveness of their appeal did not exempt them, therefore, from exercising their remedy by adducing their complaint of discrimination; and that consequently, the decision not to exercise that remedy was the responsibility of the petitioners assisted by counsel and cannot be attributed to the State party.

6.4 In the light of the foregoing, the Committee considers that the petitioners have not met the requirements of article 14, paragraph 7 (a), of the Convention.

7. The Committee on the Elimination of Racial Discrimination therefore decides:

(a) That the communication is inadmissible;

(b) That this decision shall be transmitted to the State party and to the petitioners.

Notes

[a] Article 225-1 of the Penal Code reads: "discrimination is defined as any distinction made against corporate bodies on the grounds of … actual or supposed membership or non-membership of a given ethnic group [or] nation … of members or certain members of such corporate bodies".

[b] The court noted that discriminatory intent could not be inferred from the mere fact that the Post Office had not taken the technical measures to enable the optical scanning of addresses in the Basque language. Moreover, it pointed out that the Post Office had offered the Association another preferential rate, admittedly less advantageous than the first but nevertheless lower than the normal rate.

[c] In support of its appeal, the Association invoked the absence of grounds for the decision to refuse the request; the violation of the right to legal aid insofar as it had been established that the Association lacked the means to meet the costs of a lawyer in the Court of Cassation; and the fact that the contested decision made it impossible for the Association to bring its case before international bodies owing to the non-exhaustion of domestic remedies.

[d] Société Civile Professionnelle (Professional Partnership).

Decision concerning communication No. 25/2002

Submitted by: Ahmad Najaati Sadic (represented by counsel)

Alleged victim: The petitioner

State party: Denmark

Date of communication: 25 May 2002

Decision on admissibility

1.1 The petitioner is Mr. Ahmad Najaati Sadic, a Danish citizen of Iraqi origin, born in 1955, who claims to be a victim of violations by Denmark of article 2, paragraph 1 (d), and article 6 of the Convention. He is represented by counsel, the Documentation and Advisory Centre on Racial Discrimination (DRC).

1.2 In conformity with article 14, paragraph 6 (a), of the Convention, the Committee transmitted the communication to the State party on 16 August 2002.

Facts of the case

2.1 On 25 July 2000, the petitioner was working on a construction site in a public housing area in Randers, Denmark, for the company "Assentoft Painters and Decorators" owned by Jesper Christensen. When the petitioner approached Mr. Christensen to claim overdue payments, their conversation developed into an argument during which Mr. Christensen reportedly made the following comments to the petitioner: "Push off home, you Arab pig", "Immigrant pig", "Both you and all Arabs smell", "Disappear from here, God damned idiots and psychopaths." The argument between the complainant and Mr. Christensen was overheard by at least two other workers, Mr. Carsten Thomassen and Mr. Frank Lasse Hendriksen.

2.2 On 1 March 2001, the DRC, on behalf of the petitioner, informed the police in Åarhus of the incident, arguing that section 266 (b)[a] of the Danish Criminal Code had been violated by the petitioner's by then former employer.

2.3 On 9 July 2001, Frank Lasse Henriksen was interviewed by telephone by the police of Randers. The interview report states:

> "The witness stated that he was working when his boss, Mr. Christensen, came and presented a new apprentice; also present was the victim, Ahmad. A discussion/quarrel arose between Mr. Christensen and the victim, and the discussion concerned holiday pay, wages and missing wage slips. [T]he witness went to Mr. Christensen, who at this point was angry about the quarrel with the victim, and felt - at least he said so - that, if the witness felt like the victim, he could consider himself sacked. The witness was so infuriated with the treatment that he took his boss at his word. Mr. Christensen now shouted that it was all just about an Arab bastard - which, in the witness' opinion, was far too rude. According to the witness, Mr. Christensen went

> far beyond the line. The witness was read the racist statements mentioned in the complaint and stated that they corresponded to what Mr. Christensen had called the victim. After this, the witness immediately left the workplace and has not worked for Mr. Christensen since … ."

2.4 On 12 July 2001, Carsten Thomassen was interviewed by telephone by the police of Åarhus. The interview report states:

> "On the relevant day, at about 10.30 a.m., Mr. Sadic and his boss were standing on the external gallery on the first floor - below the witness. The witness could hear that they were quarrelling about both work and money. However, the witness had only heard fragments of the quarrel, in which both parties had obviously become 'over-excited'. At some stage, the witness heard Mr. Christensen say something like: 'You can just go home' - 'black bastard'. The witness could not hear what Mr. Sadic said as he did not speak Danish very well and was difficult to understand - particularly when he was upset, as in that moment. However, to a large extent, the witness took the quarrel to be one that may arise once in a while at the workplace … ."

2.5 Mr. Christensen was interviewed by the police of Randers on 23 July 2001, without any charges being brought against him and without prejudice to his right to refuse testimony. The interview report states:

> "Mr. Christensen stated that, on the relevant day, he had a quarrel with the victim about payment for overtime … . Mr. Christensen and the victim … used abusive language … . Mr. Christensen never used … words like 'Arab bastard', 'Paki bastard', 'Arabs smell', etc. towards the victim. Mr. Christensen was confronted with the witness statement of Mr. Henriksen. To this, Mr. Christensen stated that he had previously sacked Mr. Henriksen due to disagreements … . After Mr. Henriksen had been sacked, he left the workplace and, consequently, cannot have overheard the conversation with the victim … . On the basis of the information presented, Mr. Christensen cannot admit [a] violation of section 266 (b) of the Criminal Code ... ."

2.6 By letter of 24 August 2001, the Chief Constable of the Åarhus police informed the DRC that the investigation of the case had been discontinued, stating that it could not reasonably be presumed that a criminal offence subject to ex officio prosecution had been committed. The discontinuation of the investigation was mainly based on the fact that the argument between the petitioner and Mr. Christensen had taken place at work, "where only two other persons were present". Apart from the issue of whether or not Mr. Christensen had made the statements in question, the Chief Constable found that, in any event, these statements had not been made publicly or with the intention of wider dissemination. As to a claim for damages, the petitioner was advised to pursue civil proceedings.

2.7 On 8 September 2001, the petitioner appealed the decision to discontinue investigations before the Regional Public Prosecutor in Viborg, arguing that the petitioner's former employer had made his statements on a construction site in a public housing area and, therefore, had at least accepted the possibility that other people would hear his comments. Moreover, the petitioner referred to several judgements of Danish courts which construed the requirement, in section 266 (b) of the Criminal Code, of statements being made publicly quite broadly. He challenged the Chief Constable's finding that only two other persons were present at the incident. The petitioner quoted from a written statement in which Mr. Thomassen asserted that "[o]n Tuesday, 25 July 2000, at about 10.30 a.m., I, Carsten Thomassen, was standing together with three other colleagues ... on the external gallery for a short break, when, to our great surprise, we overheard a conversation/quarrel between the master ... and Ahmad".

2.8 By letter of 27 November 2001, the Regional Public Prosecutor of Viborg dismissed the appeal, arguing that, although it could not be established with certainty that only two other persons were present at the incident, the statements by Mr. Christensen were made in connection with a dispute between the petitioner and his employer at a stage where both parties had become overexcited and that the witnesses were some distance away from the exact place of the quarrel and only heard fragments of the dispute. Given that "this was only a loud-voiced quarrel which others happened to overhear - at a distance ...", the Regional Public Prosecutor concluded that the employer's statements could not be considered public. Since the argument was not likely to disturb the public peace or cause a nuisance to other people present, the police regulations had not been violated either. The petitioner was thus advised to pursue any claim for damages through civil proceedings. The decision of the Regional Public Prosecutor was final and could not be appealed.

The complaint

3.1 The petitioner claims that he has exhausted domestic remedies, as there is no possibility to appeal the decision of the Regional Public Prosecutor and he cannot bring the case before the Danish courts. He submits that, under section 275 of the Danish Criminal Code, violations of section 266 (b) are subject only to prosecution ex officio and that direct legal action against his former employer would have been without prospect, given that the police and the Regional Public Prosecutor had rejected his complaint. In support of the latter claim, the petitioner submits that, pursuant to a decision of the Eastern High Court dated 5 February 1999, an incident of racial discrimination does not in itself constitute a violation of the honour and reputation of a person within the meaning of section 26 of the Liability for Damages Act.

3.2 The petitioner claims that the State party has violated its obligations under articles 2, paragraph 1 (d), and 6 of the Convention by not investigating effectively to what extent the construction site was accessible to the public, how many people were present at the incident and to what extent it would have been possible for others to overhear the employer's statements. The petitioner argues that, following the decision of the Committee in *L.K. v. The Netherlands* (case No. 4/1991, Opinion adopted on 16 March 1993), States parties have a positive obligation under the above provisions to take effective action against reported incidents of racial discrimination.

3.3 By reference to another case decided by the Committee *(Kashif Ahmad v. Denmark)* (case No. 16/1999, Opinion adopted on 13 March 2000) [in which racist comments were made in a hallway outside a classroom], the petitioner submits that the State party did not claim in that case that the statements had not been made publicly and that a violation was found by the Committee. He furthermore refers to two cases in which Danish courts found violations of section 266 (b) of the Criminal Code in what he considers similar circumstances.

3.4 The petitioner asks the Committee to request the State party to carry out a full investigation into the incident reported by him and to award him financial compensation, in accordance with article 6 of the Convention.

The State party's submission on the admissibility and the merits of the communication

4.1 By note verbale of 20 November 2002, the State party made its submissions on the admissibility and, subsidiarily, on the merits of the communication.

4.2 On admissibility, the State party submits that the petitioner failed to exhaust domestic remedies. Contrary to violations of section 266 (b), which are subject to prosecution ex officio, violations of section 267[b] of the Criminal Code - the general provision on defamatory statements which supplements section 266 (b) - are prosecuted only at the request of the individual concerned, pursuant to section 275[c] of the Criminal Code. The petitioner could have requested the institution of criminal proceedings under section 267 against his employer and, by doing so, could have obtained a decision on whether his former employer had made the reported statements and, subject to fulfilling the conditions of section 267, a conviction of Mr. Christensen.

4.3 The State party contends that the institution of criminal proceedings under section 267 of the Criminal Code is an effective remedy. Moreover, the decision of the Danish authorities to discontinue investigations under section 266 (b) was without prejudice to the effectiveness of that remedy, since neither the Chief Constable nor the Regional Public Prosecutor had taken any position on the question whether Mr. Christensen had made the statements complained of. The State party argues that, for the same reason, the discontinuation of investigations under section 266 (b) did not preclude a legal action for non-pecuniary damages against his former employer, under section 26 of the Liability for Damages Act.[d]

4.4 The State party argues that the communication is incompatible with the Convention *ratione materiae*, since the central claim is that the Danish authorities did not interpret and apply section 266 (b) of the Criminal Code correctly. The concrete elements which, according to the petitioner, should have been investigated all relate to the conditions for punishment under section 266 (b), i.e. the place where the statements were made, the number of persons who heard or might have heard Mr. Christensen's statements, etc. In the State party's opinion, the legal assessment by the Chief Constable and the Regional Public Prosecutor of Viborg that the requirements of section 266 (b) were not met in the present case is primarily a matter which relates to the interpretation and application of domestic legislation and which the Committee has no competence to review.

4.5 On the basis of the above arguments, the State party concludes that the communication should be declared inadmissible under article 14, paragraphs 1 and 7 (a), of the Convention.

4.6 Subsidiarily and on the merits, the State party submits that the Danish authorities took the petitioner's complaint seriously, as they initiated investigations and interviewed witnesses, as well as the petitioner's former employer, as a result of the complaint. It concludes that the processing and assessment of the complaint by the Chief Constable and the Regional Public Prosecutor therefore fully complies with the State party's obligations under article 2, paragraph 1, and article 6 of the Convention.

4.7 With regard to the requirement that a statement should be made "publicly or with the intention of wider dissemination", the State party admits that grey areas in the delimitation between public and private are unavoidable and argues that it should therefore be for the national authorities to assess whether these requirements have been met in a specific case.

4.8 The State party submits that the two judgements adduced in support of his arguments by the petitioner could not be relied upon because, in one case, the judgement contained no specific information on the number of persons present in the news store and, in the other case, the court observed that "many persons must have overheard ... the incident".

4.9 The State party argues, moreover, that section 266 (b) of the Criminal Code is not the only provision designed to ensure compliance with the State party's obligations under the Convention, since it is supplemented by other provisions, including section 267 of the same Code.

4.10 The State party concludes that, even if the Committee were to declare the communication admissible, it does not in any event disclose a violation of the Convention.

Comments by the petitioner

5.1 The petitioner submits that section 267 of the Criminal Code, as well as section 26 of the Liability for Damages Act, do not address the issue of racial discrimination and therefore do not provide an effective remedy against acts of racial discrimination, as required by article 2, paragraph 1 (d), and article 6 of the Convention. He claims that the only relevant remedy is section 266 (b) of the Criminal Code, indicating that, in previous cases, it was not held by the Committee that, in order to exhaust domestic remedies, a petitioner should have initiated criminal proceedings under section 267 of the Criminal Code or civil proceedings under section 26 of the Liability for Damages Act.

5.2 As to the requirements of section 266 (b) of the Criminal Code, the petitioner reiterates that Danish courts found violations of that provision in the past even where only one other person apart from the victim(s) had been present during an incident of racial discrimination. He also refers to the Opinion in *Kashif Ahmad v. Denmark* (case No. 16/1999, para. 6.1), where the Committee found a violation of article 6 of the Convention on the basis "that the author was insulted in public", since the relevant statements were made "in a school corridor and in the presence of several witnesses".

5.3 Based on the written statement of Mr. Thomassen, the petitioner claims that at least five persons overheard his argument with his employer and that the police failed to contact the other three colleagues mentioned in that statement.

5.4 The petitioner rejects the State party's argument that the core of his communication is related to the interpretation of domestic legislation and the evaluation of facts and evidence. He argues that the lack of an effective investigation is closely connected to the fact that the Danish authorities concluded that his complaint fell outside the scope of section 266 (b) of the Criminal Code.

Issues and proceedings before the Committee

6.1 Before considering the substance of a communication, the Committee on the Elimination of Racial Discrimination must, in accordance with rule 91 of its rules of procedure, examine whether or not the communication is admissible.

6.2 The Committee notes that the petitioner brought a complaint under section 266 (b) of the Criminal Code before the police and the Regional Public Prosecutor and that these authorities, after having interviewed two witnesses and the petitioner's former employer, decided to discontinue criminal proceedings under section 266 (b), as they considered that the requirements of this provision were not satisfied. It has taken note of the State party's argument that, despite the discontinuation of proceedings under section 266 (b) of the Criminal Code, the petitioner could have requested the institution of criminal proceedings against his former employer under the general provision on defamatory statements (section 267 of the Criminal Code). The petitioner does not deny the availability of this remedy, but questions its effectiveness in relation to incidents of racial discrimination.

6.3 The Committee observes that the notion of "effective remedy", within the meaning of article 6 of the Convention, is not limited to criminal proceedings based on provisions which specifically, expressly and exclusively penalize acts of racial discrimination. In particular, the Committee does not consider it contrary to articles 2, paragraph 1 (d), and 6 of the Convention if, as in the State party's case, the provisions of criminal law specifically adopted to outlaw acts of racial discrimination are supplemented by a general provision criminalizing defamatory statements which is applicable to racist statements even if they are not covered by specific legislation.

6.4 As to the petitioner's argument that criminal proceedings against his former employer under section 267 would have been without prospect because the authorities had already rejected his complaint under section 266 (b) of the Criminal Code, the Committee notes, on the basis of the material before it, that the requirements for prosecution under section 266 (b) are not identical to those for prosecution under section 267 of the Criminal Code. It therefore does not appear that the Danish authorities' decision to discontinue proceedings under section 266 (b) on the ground of lack of evidence as to whether the employer's statements were made publicly or with the intention of wider dissemination have prejudiced a request by the petitioner to institute criminal proceedings under section 267 (together with section 275) of the Criminal Code. The Committee therefore considers that the institution of such proceedings can be regarded as an effective remedy which the petitioner failed to exhaust.

6.5 As to the question of damages, the Committee recalls the State party's argument that the petitioner did not institute civil proceedings against his former employer under section 26 of the Liability for Damages Act and therefore did not exhaust domestic remedies. With regard to the petitioner's arguments that a previous decision of the Eastern High Court held that an incident of racial discrimination does not in itself constitute a violation of the honour and reputation of a person, the Committee considers that mere doubts about the effectiveness of available civil remedies do not absolve a petitioner from pursuing them (see communication No. 19/2000, *Sarwar Seliman Mostafa v. Denmark*, decision adopted on 10 August 2001, para. 7.4).

6.6 Accordingly, the Committee considers that, by not exhausting the available domestic remedies, the petitioner has failed to meet the requirements of article 14, paragraph 7 (a), of the Convention.

6.7 The Committee on the Elimination of Racial Discrimination therefore decides:

(a) That the communication is inadmissible;

(b) That this decision shall be communicated to the State party and to the petitioner.

6.8 However, the Committee invites the State party to reconsider its legislation, since the restrictive condition of "broad publicity" or "wider dissemination" required by article 266 (b) of the Danish Criminal Code for the criminalization of racial insults does not appear to be fully in conformity with the requirements of articles 4 and 6 of the Convention.

Notes

[a] Section 266 (b) of the Criminal Code reads, in pertinent parts:

"(1) Any person who, publicly or with the intention of wider dissemination, makes a statement or imparts other information by which a group of people are threatened, insulted or degraded on account of their race, colour, national or ethnic origin, religion, or sexual inclination shall be liable to a fine or to imprisonment for any term not exceeding four months.

"(2) ...

"(3) ... ."

[b] Section 267 of the Criminal Code reads, in pertinent parts:

"(1) Any person who violates the honour of another [person] by offensive words or conduct, or by making or spreading allegations of an act likely to disparage [that person] in the esteem of his or her fellow citizens, shall be liable to a fine or to imprisonment ... not exceeding four months.

"(2) ...

"(3) ... ."

[c] Section 275 of the Criminal Code reads, in pertinent parts:

"(1) The offences contained in this Part shall be prosecuted at the request of the individual concerned, except for the offences referred to in sections ... 266 (b).

"(2) ... ."

[d] Section 26, paragraph 1, of the Liability for Damages Act reads: "(1) A person who is liable for unlawful violation of another person's freedom, peace, character or person shall pay compensation to the injured party for non-pecuniary damage."

Opinion concerning communication No. 26/2002

Submitted by: **Stephen Hagan (represented by counsel)**

Alleged victim: **The petitioner**

State party: **Australia**

Date of the communication: **31 July 2002**

The Committee on the Elimination of Racial Discrimination, established under article 8 of the International Convention on the Elimination of All Forms of Racial Discrimination,

Meeting on 20 March 2003,

Adopts the following:

Opinion

1. The petitioner, Stephen Hagan, is an Australian national, born in 1960, with origins in the Kooma and Kullilli tribes of south-western Queensland. He alleges to be a victim of a violation by Australia of articles 2, in particular, paragraph 1 (c); 4; 5, paragraphs d (i) and (ix), e (vi) and f; 6 and 7 of the International Convention on the Elimination of All Forms of Racial Discrimination. He is represented by counsel.

The facts as presented

2.1 In 1960, the grandstand of an important sporting ground in Toowoomba, Queensland, where the author lives, was named the "E.S. 'Nigger' Brown Stand", in honour of a well-known sporting and civic personality, Mr. E.S. Brown. The word "nigger" ("the offending term") appears on a large sign on the stand. Mr. Brown, who was also a member of the body overseeing the sports ground and who died in 1972, was of white Anglo-Saxon extraction who acquired the offending term as his nickname, either "because of his fair skin and blond hair or because he had a penchant for using 'Nigger Brown' shoe polish". The offending term is also repeated orally in public announcements relating to facilities at the ground and in match commentaries.

2.2 On 23 June 1999, the petitioner requested the trustees of the sports ground to remove the offending term, which he found objectionable and offensive. After considering the views of numerous members of the community, who had no objection to the use of the offending term on the stand, the trustees advised the petitioner by letter of 10 July 1999 that no further action would be taken. On 29 July 1999, a public meeting chaired by a prominent member of the local indigenous community and attended by a cross-section of the local Aboriginal community, the mayor and the chair of the sports ground trust passed a resolution, "That the name 'E.S. "Nigger" Brown' remain on the stand in honour of a great sportsman and that in the interest of the spirit of reconciliation, racially derogative or offensive terms will not be used or displayed in future".[a]

2.3 On 11 May 2000, the petitioner brought a Federal Court action, on the basis that the trustees' failure to remove the offending term violated sections 9 (1)[b] and 18 C (1)[c] of the federal Racial Discrimination Act 1975 ("the Act"). He sought removal of the offending term from the grandstand and an apology from the trustees. On 10 November 2000, the Federal Court dismissed the petitioner's application. The Court considered that the petitioner had not demonstrated that the decision was an act "reasonably likely in all circumstances to offend, insult, humiliate or intimidate an indigenous Australian or indigenous Australians generally". Nor was the decision an act, in the words of the statutory language, "done because of the race ... of the people of the group". Finally, the Court considered that the Act did not protect the "personal sensitivities of individuals", as it considered to be the case here, but rather "render[ed] acts against individuals unlawful only where those acts involve treating the individual differently and less advantageously than other persons who do not share the membership of the complainant's racial, national or ethnic group". On 23 February 2002, the Full Court of the Federal Court rejected the petitioner's appeal. On 19 March 2002, the High Court of Australia refused the petitioner's application for special leave to appeal.

2.4 The petitioner also pursued a complaint to the Human Rights and Equal Opportunity Commission (HREOC), which could not be pursued further because of a subsequent restriction by law of the Commission's jurisdiction to investigate certain individual complaints.

The complaint

3.1 The petitioner contends that the use of the offending term on the grandstand and orally in connection therewith violates articles 2, in particular, paragraph 1 (c); 4; 5, paragraphs d (i) and (ix), e (vi) and f; 6 and 7 of the Convention. He contends that the term is "the most racially offensive, or one of the most racially offensive, words in the English language". Accordingly, he and his family are offended by its use at the ground and are unable to attend functions at what is the area's most important football venue. He argues that whatever may have been the position in 1960, contemporary display and use of the offending term is "extremely offensive, especially to the Aboriginal people, and falls within the definition of racial discrimination in article 1" of the Convention.

3.2 He clarifies that he has no objection to honouring Mr. Brown or naming a football stand in his honour, but that at the time the nickname "Nigger" was applied to Mr. Brown, non-Aboriginal Australians "either were not aware of or were insensitive to the hurt and offence that term caused to Aboriginal people". He argues further that it is not necessary to repeat Mr. Brown's nickname in order to honour him, for other stadiums named after well-known athletes utilize their ordinary names, rather than their nicknames.

3.3 He argues that under article 2, paragraph 1 (c), in particular, any State party to the Convention has an obligation to amend laws having the effect of perpetuating racial discrimination. He contends that use of words such as the offending term in a very public way provides the term with formal sanction or approval. Words convey ideas and power, and influence thoughts and beliefs. They may perpetuate racism and reinforce prejudices leading to racial discrimination. The lawfulness (in terms of domestic law) of the use of this term also runs counter to the objectives of article 7, which indicates that States parties undertake to combat prejudices leading to racial discrimination.

3.4 The petitioner further argues that section 18 (1) (b) of the Act, requiring the offensive conduct to be "because of" a racial attribute, is narrower than the associative terms "based on" found in the definition of racial discrimination in article 1 of the Convention. He characterizes that the dismissal of his complaint, inter alia on the grounds that the offensive term was not "because of" a racial attribute, was "technical".

3.5 By way of remedy, the petitioner seeks the removal of the offending term from the sign and an apology, as well as changes to Australian law to provide an effective remedy against racially offensive signs such as the one in question.

The State party's submissions on admissibility and merits

4.1 By submission of 26 November 2002, the State party disputed both the admissibility and merits of the petition.

4.2 As to admissibility, the State party, while conceding that domestic remedies have been exhausted, considers the petition incompatible with the provisions of the Convention and/or insufficiently substantiated. Concerning incompatibility, the State party refers to jurisprudence of the Human Rights Committee that it will not review the interpretation of domestic law, absent bad faith or abuse of power,[d] and invites the Committee on the Elimination of Racial Discrimination to take the same approach. The State party notes that its courts and authorities considered the petitioner's complaints expeditiously and according to laws enacted in order to give effect to its obligations under the Convention. The courts, at first instance and appeal, held that the petitioner's complaints had not been made out. Accordingly, the State party submits it would be inappropriate for the Committee to review the judgements of the Federal Court and to substitute its own views. As to the specific claim under paragraph 1 (c) that the State party should amend the Racial Discrimination Act (being a law having the effect of perpetuating racial discrimination), the State party argues that this claim is incompatible with the Convention, as the Committee has no jurisdiction to review the laws of Australia in the abstract. It invites the Committee to follow the jurisprudence of the Human Rights Committee to this effect.[e]

4.3 In view of the thorough consideration and rejection of the complaint before domestic instances, the State party also argues that the petition is insufficiently substantiated, for purposes of admissibility.

4.4 On the merits, the State party disputes that the facts disclose a violation of any articles of the Convention invoked. As to the claim under article 2, the State party submits that these obligations are of general principle and programmatic in character, and therefore accessory to other articles of the Convention. Accordingly, in the same way that the Human Rights Committee only finds a violation of article 2 of the International Covenant on Civil and Political Rights[f] after finding a separate substantive violation of the Covenant, a violation of article 2 of the Convention could only arise after a violation of the other substantive articles (which is denied in its submissions under articles 4 to 7 below).[g] Even if the Committee considers that article 2 can be directly breached, the State party submits that it has satisfied its obligations: it condemns racial discrimination, has enacted legislation and policy to make its practice by any person or body unlawful as well as to eliminate all forms of racial discrimination and actively promote racial equality, and has provided effective mechanisms of redress.

4.5 In terms of the specific paragraphs of article 2, as to paragraph 1 (a), the State party cites academic commentary to the effect that this provision does not deal with private acts of discrimination (which are referred to in subparagraphs (b) and (d)).[h] As the Toowomba Sports Ground Trust is a private body rather than a public authority or government agent, its acts fall outside the scope of paragraph 1 (a). As to paragraph 1 (b), the State party relies on commentary that this provision is intended to prevent any actor engaged in racial discrimination from receiving State support.[i] The State party submits that neither the establishment of the Sports Ground Trust, its continued existence, nor its response to the communication can be taken as any State sponsorship, defence or support of any racial discrimination committed by the Trust (which is denied).

4.6 As to paragraph 1 (c), the State party refers to its submissions below that no racial discrimination has been suffered.[j] That the petitioner's complaint under the Racial Discrimination Act was unsuccessful does not detract from the effectiveness of that legislation, nor does it suggest that the Act creates or perpetuates racial discrimination. As to paragraph 1 (d), the State party again refers to its submissions that no racial discrimination has occurred, and to its general remarks above on article 2.[k] As to paragraph 1 (e), the State party refers to commentary that this provision is "broadly and vaguely worded", leaving undefined "[w]hat 'integrationist' movements are, and what 'strengthens' racial division".[l] The State party recalls that Australia is a multicultural society, and that its laws and policies are designed to eliminate direct and indirect racial discrimination and actively to promote racial equality. It refers to its periodic reports to the Committee for in-depth description of these laws and policies. As to paragraph 2, the State party submits that the petitioner has failed to indicate how the circumstances of his case warrant the implementation of "special measures". Alternatively, it refers to its submissions that no discrimination has taken place for the conclusion that no need for "special measures" arises.

4.7 As to the petitioner's claim under article 4, the State party invokes its reservation to this article.[m] The State party recalls that pursuant to its obligations under this article, it enacted Part II A of the Racial Discrimination Act, including section 18 C, under which the petitioner filed his claim. It further argues, based on the jurisprudence of the Human Rights Committee,[n] that States parties must be accorded a certain "margin of appreciation" in implementing their Convention obligations.

4.8 The State party argues that the use of the term "because of" in section 18 of the Act, requiring a causal relationship between offensive conduct and the race, colour, or national or ethnic origin of the "targeted group", is an appropriate manner to implement the obligation to prohibit the intentionally racist acts described in article 4. This is consistent with the Convention and avoids uncertainty. Accordingly, the State party argues that to use "based on" in section 18 of the Act would not give appropriate effect to article 4 of the Convention as implemented in Australian law.

4.9 The State party contends that the petitioner's complaint was not dismissed on technical grounds, but for lack of substance. The Federal Court, rejecting the contention that any use of the offending term must necessarily be racially offensive, concluded that in the context in which the offending term was used and the community perceptions of the sign on the stand, the decision of the Trust to leave the sign intact did not breach section 18 C of the Act. The State party invites the Committee to adopt the approach of the Federal Court and take into consideration the context in which the word is used in determining issues under article 4.

4.10 The State party refers to the following contextual elements: (i) the fact that the offending term is displayed as "an integral part of the name of a person who is clearly being honoured by having his name publicly attached to the stand", (ii) the Federal Court's finding that "[e]ven if the nickname 'Nigger' was originally bestowed long ago on Mr. Brown in circumstances in which it then had a racial or even a racist connotation, the evidence indicates that for many decades before the author's complaint, its use as part of the customary identifier of Mr. Brown had ceased to have any such connotation", (iii) the consultations with local indigenous persons, (iv) the evidence of a former Aboriginal rugby league personality in the area for whom the name was unproblematic and "simply part of history", and (v) the absence of any complaint (until the petitioner's) over 40 years of display at a ground often frequented by many indigenous persons despite increased sensitivities and willingness to speak out in recent years.

4.11 In the light of the above, the State party contends that the Federal Court's conclusion (upheld on appeal) that the trustees' refusal, conveyed only after "in good faith [having] taken care to avoid offending the members of a racial group" and which "is not, on an objective view, likely to offend members of that group", was not an "act done because of the race of" any person. While accepting that the petitioner subjectively felt offended, the Committee should apply an objective test similar to that of the Federal Court in finding that there was no suggestion that the trustees were attempting to justify, promote or incite racial discrimination, contrary to article 4 of the Convention.

4.12 In terms of the specific paragraphs (a) to (c) of article 4, the State party argues that the petitioner has supplied no evidence as to how it may have violated any of these obligations, including that it may be abetting racist activities. It points to Part II A of the Act, which makes unlawful offensive behaviour based on racial hatred, and to further legislation at both State and Territory level that proscribes racial hatred and vilification, as implementing its obligations under these paragraphs. As to paragraph (a), it recalls its reservation and, as to paragraph (c), that the Trust is not a public authority or institution.

4.13 As to the petitioner's claim, under article 5, that he is unable to enjoy functions at the sports ground, the State party refers to the jurisprudence of the European Court of Human Rights in assessing discrimination. Under that approach, there must be a clear inequality of treatment in enjoyment of the relevant right, as compared to others in an analogous position. If there is such inequality between similarly situated persons, there must be reasonable and objective justification as well as proportionality of the means applied to achieve a particular aim.[o] The State party observes that sections 9 (making racial discrimination unlawful)[p] and 10 (ensuring equality before the law) of the Act were enacted to implement articles 2 and 5 of the Convention, and section 9 closely follows the definition of racial discrimination in article 1 of the Convention.

4.14 The State party notes that the Federal Court (upheld on appeal) interpreted the phrase "based on" section 9 (1), upon which the author relied, as not "requiring a causal relationship between the act complained of and race etc., but [that it] should rather be read as meaning 'by reference to', i.e., as capable of being satisfied by a less direct relationship than that of cause and effect". Turning to the petitioner's case in terms of section 9 (1), the Court did not consider that the trustees' decision to retain the sign was an act "based on" race. This was so for the decision was not "an act that involved treating members of the Aboriginal race differently, let alone less favourably, from other members of the community", as the offending term was simply part of the customary identifier of a well-known person which had long ceased to have any inappropriate connotation.

4.15 The Court considered that, even if the decision was based or motivated on race, these racial considerations "were taken into account to satisfy the trustees that maintenance of the sign would not give offence to Aboriginal persons generally, as distinct from offence to [the petitioner] personally". Thus, the Court concluded, in finding that there was no racial discrimination, that: "[I]t cannot be said that the act, even if based on race, involved any distinction etc. having either the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of any human right or fundamental freedom of the kind referred to in section". The State party therefore submits that, as found by the Federal Court, the petitioner has failed to establish that he was treated by the trustees any differently from, or less favourably than, any other person in a similar position, and therefore no racial discrimination has been established.

4.16 In terms of the specific paragraphs of article 5 invoked by the petitioner (paras. (d) (i), (d) (ix), (e) (vi) and (f)), the State party submits that as he failed to establish a racially based distinction in the circumstances of his case, no question of discrimination arises in respect of his freedom of movement, freedom of assembly or association, right to equal participation in cultural activities, or right of access to any public place or service, respectively. As to paragraph (e) (vi), the State party refers to the Committee's jurisprudence that it is beyond its mandate to ensure that this right is established, but rather to monitor its implementation once the right is granted on equal terms.[q]

4.17 On article 6, the State party notes that States possess a certain degree of flexiblity in fulfilling their obligation under article 6.[r] It submits that its domestic law, which provides for the filing and determination of complaints of racial discrimination and the award of remedies, including monetary compensation for successful complaints, appropriately implements the obligation under article 6. The State party emphasizes that the dismissal of the petitioner's complaint by the Federal Court is no reflection on the effectiveness of the Act's remedies against racial discrimination, or of the remedies available when complaints are successful.

4.18 In any event, the State party submits that article 6, providing for remedies, is accessory in nature and can only be found to have been violated once a separate violation of the specific rights in the Convention has been established.[s] As no other violation of the Convention has been established (under arts. 2, 4, 5 or 7), nor can there be a consequent violation of article 6.

4.19 As to the claim under article 7, the State party notes that the Act came into effect the day after the Convention entered into force for the State party. Moreover, federal, state and territory governments have, over the years, adopted a wide array of measures to combat effectively racial prejudice and promote racial harmony, which are detailed in the State party's periodic reports. That the petitioner was unsuccessful before the domestic courts does not detract from the immediacy or effectiveness of measures taken by the State party's governments to combat racial prejudice and to promote racial harmony.

The petitioner's comments

5.1 By submission of 20 December 2002, the petitioner responded to the State party's observations. He confirms that he is not asking the Committee to review decisions of the domestic courts, but rather to assess compliance with the Convention of the public display and repeated use in announcements of the offending term. It is apparent from the outcome of the domestic proceedings that the State party's domestic law is cast in overly restrictive terms and does not give full effect to Convention obligations. Nor does the petitioner ask the Committee to review the State party's law in abstracto; rather, he complains of a specific breach of the Convention and the State party's failure to provide a corresponding remedy.

5.2 The petitioner considers that subjective views of individuals referred to by the State party who were not offended by the term in question is of no relevance, as the question is whether the offence was felt by the petitioner and his family. In any event, a considerable number of other persons shared the petitioner's views on the stand, namely the Toowoomba Day Committee, the Toowoomba Multicultural Association, over 80 people participating in a "practical reconciliation" walk and 300 persons who signed a petition. Affidavits to this effect were submitted to the Federal Court, but were not admitted as evidence on technical grounds.[t] The petitioner invites the Committee to take notice of these views. In any event, the petitioner requests the Committee to conclude that the offending term is objectively offensive, whatever the subjective views of various individuals.

5.3 As to the inferences to be drawn from the failure of his domestic proceedings, the petitioner argues that this failure derived from the State party's legislation being so narrowly drawn that it is exceedingly difficult to prove discrimination, and thus it did not give full effect to the Convention. This failure shows that the State party's law does not provide effective protection against racial discrimination. He emphasizes that he does not approach the Committee arguing a violation of domestic legislation, but rather of the Convention itself.

5.4 As to the State party's specific arguments under article 2, the petitioner observes that the State party has taken no steps to have the offending sign removed, despite the controversy surrounding it for years. This is said to be in violation of the duty, under article 2, to eliminate and bring to an end all forms of racial discrimination. The petitioner rejects the characterization of the Sports Ground Trust as a "private body". He points out that trustees are appointed and can be removed by the Minister, and that their function is to manage land for public (community) purposes. Indeed, the State party's legislation provides that any liability of the trustees attaches to the State.[u] It is therefore a public authority or institution for Convention purposes.

5.5 As to the State party's specific arguments under article 4, the petitioner objects to the reference to its reservation. He contends that the reservation is "probably invalid" as incompatible with the object and purpose of the Convention. Even if valid, he points out that the reservation is temporally limited as it refers to the State party's intention "at the first possible moment, to seek from Parliament legislation implementing the terms of article 4 (a)". Given that the State party contends that the Part II A of the Act implements its obligations under the article, the reservation must now have lapsed.

5.6 The petitioner points out that he is not objecting to use of the offending term in the distant past, but rather its contemporary use and display. He points out that it is not necessary to repeat the offensive nickname in order to honour Mr. Brown, and it is not common in the State party for stands to feature the nicknames of famous sportspeople in addition to their proper names.

5.7 As to the State party's specific arguments under article 5, the petitioner contends that he *has* established a racially based distinction on the basis that the offending term is racially offensive and derogatory, and that white Australians are not affected as the petitioner and his family have been. The inability as a consequence of the petitioner and his family to attend the ground impaired their rights under article 5, including their right to equal participation in cultural activities. As to the State party's specific arguments under article 5, the author observes that the State party failed to identify any measure of "teaching, education, culture and information" directed at combating the trustees' discriminatory conduct, or at promoting reconciliation amongst the many persons offended by the sign.

Issues and proceedings before the Committee

Consideration of admissibility

6.1 Before considering any claims contained in a petition, the Committee on the Elimination of Racial Discrimination must, in accordance with rule 91 of its rules of procedure, decide whether or not it is admissible under the Convention.

6.2 The Committee notes that the State party concedes that domestic remedies have been exhausted. As to the State party's arguments that the petition falls outside the scope of the Convention and/or is insufficiently substantiated, the Committee considers that the petitioner has sufficiently substantiated, for purposes of admissibility, that his individual claim may fall within the scope of application of the provisions of the Convention. Given the complexity of the arguments of both fact and law, the Committee deems it more appropriate to determine the precise scope of the relevant provisions of the Convention at the merits stage of the petition.

6.3 In the absence of any further objections to the admissibility of the communication, the Committee declares the petition admissible and proceeds to its examination of the merits.

Consideration of the merits

7.1 Acting under article 14, paragraph 7 (a), of the International Convention on the Elimination of All Forms of Racial Discrimination, the Committee has considered the information submitted by the petitioner and the State party.

7.2 The Committee has taken due account of the context within which the sign bearing the offending term was originally erected in 1960, in particular the fact that the offending term, as a nickname probably with reference to a shoeshine brand, was not designed to demean or diminish its bearer, Mr. Brown, who was neither black nor of Aboriginal descent. Furthermore, for significant periods neither Mr. Brown (for 12 years until his death) nor the wider public (for 39 years until the petitioner's complaint) objected to the presence of the sign.

7.3 Nevertheless, the Committee considers that that use and maintenance of the offending term can at the present time be considered offensive and insulting, even if for an extended period it may not have necessarily been so regarded. The Committee considers, in fact, that the

Convention, as a living instrument, must be interpreted and applied taking into the circumstances of contemporary society. In this context, the Committee considers it to be its duty to recall the increased sensitivities in respect of words such as the offending term appertaining today.

8. The Committee therefore notes with satisfaction the resolution adopted at the Toowoomba public meeting of 29 July 1999 to the effect that, in the interest of reconciliation, racially derogatory or offensive terms will not be used or displayed in the future. At the same time, the Committee considers that the memory of a distinguished sportsperson may be honoured in ways other than by maintaining and displaying a public sign considered to be racially offensive. The Committee recommends that the State party take the necessary measures to secure the removal of the offending term from the sign in question, and to inform the Committee of such action it takes in this respect.

Notes

[a] It is not clear whether the petitioner attended this meeting.

[b] Section 9 of the Racial Discrimination Act 1975 (Commonwealth) provides:

> "Racial discrimination to be unlawful
>
> "(1) It is unlawful for a person to do any act involving a distinction, exclusion, restriction or preference based on race, colour, descent or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of any human right or fundamental freedom in the political, economic, social, cultural or any other field of public life."

[c] Section 18 C of the Racial Discrimination Act provides:

> "Offensive behaviour because of race, colour, or national or ethnic origin
>
> "(1) It is unlawful for a person to do an act, otherwise than in private, if:
>
> "(a) The act is reasonably likely, in all the circumstances, to offend, insult, humiliate or intimidate another person or a group of people; and
>
> "(b) The act is done because of the race, colour or national or ethnic origin of the other person or of some or all of the people in the group."

[d] Case No. 58/1979, *Maroufidou v. Sweden,* Views adopted on 9 April 1981.

[e] Case No. 55/1979, *MacIsaac v. Canada,* Views adopted on 25 July 1980: "[The Committee's] task is not to decide in the abstract whether or not a provision of national law is compatible with the Covenant, but only to consider whether there is or has been a violation of the Covenant in the particular case submitted to it."

[f] Article 2 of the Covenant sets out the right to an effective remedy for violations of the Covenant.

[g] Paras. 4.7 to 4.9, infra.

[h] N. Lerner, *The United Nations Convention on the Elimination of All Forms of Racial Discrimination*, The Netherlands, Sijthoff Noordhoff Publishers, 1980, p. 37.

[i] Ibid.

[j] Paras. 4.19 to 4.15, infra.

[k] Para. 4.4, supra.

[l] Lerner, op. cit., p. 38.

[m] The reservation provides: "The Government of Australia ... declares that Australia is not at present in a position specifically to treat as offences all the matters covered by article 4 (a) of the Convention. Acts of the kind there mentioned are punishable only to the extent provided by the existing criminal law dealing with such matters as the maintenance of public order, public mischief, assault, riot, criminal libel, conspiracy and attempts. It is the intention of the Australian Government, at the first suitable moment, to seek from Parliament legislation specifically implementing the terms of article 4 (a)."

[n] Case No. 61/1979, *Hertzberg et al. v. Finland*, Views adopted on 2 April 1982.

[o] *Airey v. Ireland* (A 32 para. 30 (1980)), *Dudgeon v. United Kingdom* (A 45 para. 67 (1981)), *Van der Mussele v. Belgium* (A 70 para. 46 (1983)), *The Belgian Linguistic Case (Merits)* (A para. 6 (1968)).

[p] For full text of the provision, see note b, supra.

[q] Case No. 2/1989, *Demba Talibe Diop v. France*, Opinion of 18 March 1991.

[r] L. Valencia Rodriguez, "The International Convention on the Elimination of All Forms of Racial Discrimination" in *Manual on Human Rights Reporting Under Six Major International Instruments*, Geneva, United Nations, 1997, pp. 288-289.

[s] See para. 4.4 and note d, supra.

[t] This evidence is supplied to the Committee.

[u] Section 92, *Lands* Act 1994 (Queensland).

B. Sixty-third session

Opinion concerning communication No. 27/2002

Submitted by:	Kamal Quereshi (represented by counsel, Eddie Khawaja, of the Documentation and Advisory Centre on Racial Discrimination)
Alleged victim:	The petitioner
State party:	Denmark
Date of the communication:	23 October 2002
Date of the present decision:	19 August 2003

The Committee on the Elimination of Racial Discrimination, established under article 8 of the International Convention on the Elimination of All Forms of Racial Discrimination,

Meeting on 19August 2003,

Adopts the following:

Opinion

1. The petitioner is Kamal Quereshi, a Danish national born 29 July 1970 and a member of the Danish Parliament for the Socialist Peoples Party. He claims to be a victim of a violation by Denmark of articles 2, subparagraph 1 (d), 4 and 6 of the Convention. He is represented by counsel.

The facts as presented

2.1 On 26 April 2001, Pia Andersen, a member of the Executive Board of the Progressive Party, faxed a party press release to media, with the headline "No to more Mohammedan rapes!". It included the following statements:

> "Cultural enrichments taking place in the shape of negative expressions and rapes against us Danish women, to which we are exposed every day. … Now it's too much, we will not accept more violations from our foreign citizens, can the Mohammedans not show some respect for us Danish women, and behave like the guests they are in our country, then the politicians in the parliament have to change course and expel all of them."

2.2 On 15 May 2001, Ms. Andersen faxed another press release, in relation to neighbourhood disturbances in Odense, which included the following:

> "Engage the military against the Mohammedan terror! … Dear fellow citizen, it is that war-like culture these foreigners enrich our country with. … Disrespect for this country's laws, mass-rapes, violence, abuse of Danish women by shouting things like 'horse', 'Danish pigs', etc. And now this civil war-like situation."

2.3 For these two actions, the Odense police charged Ms. Andersen with a violation of section 266 (b) of the Danish Criminal Code.[a] She was later convicted (see paragraph 2.8). On 5 September 2001, the Progressive Party placed in the newspaper an invitation to a lecture by the former party leader, Mogens Glistrup, which read that: "The Bible of the Muhamedans requires: the infidel shall be killed and slaughtered, until all infidelity has been removed."

2.4 From 20 to 22 October 2001, the Progressive Party held its annual meeting. This meeting, of a party running for Parliament, was required by law to be broadcast on public television. A number of speakers presented the following views:

> Margit Guul (member of the party): "I'm glad to be a racist. We shall free Denmark of Mohammedans", "the Black breed like rats", "they shall have a hand cut off if they steal".
>
> Bo Warming (member of the party): "The only difference between Mohammedans and rats is that the rats do not receive social benefits."
>
> Mogens Glistrup (former party leader): "Mohammedans are going to exterminate the populations in those countries they have forced themselves into."
>
> Peter Rindal (member of the party): "Regarding Muslim graveyards, that is a brilliant idea, and preferably of such size that they all fit in them, and preferably at once."
>
> Erik Hammer Sørensen (member of the party): "Fifth columnists are walking around among us. The ones we have received commit violence, murder and rape."
>
> Vagn Andersen (member of the party): "The State has given these foreigners/strangers jobs. They work in our slaughterhouses, where they without problems can poison our food, and endanger our agricultural export. Another form of terrorism is to break into our water supply facilities and poison the water."

2.5 After witnessing this meeting, the petitioner requested the Documentation and Advisory Centre on Racial Discrimination (DRC) to file a criminal complaint against the Progressive Party for a violation of section 266 (b). The DRC filed a complaint with the Chief Constable of the Thisted police, the city of residence of the Progressive Party leader. On 31 October 2001, the complaint was rejected on the basis that section 266 (b) did not apply to legal persons such as a political party. On 3 December 2001, the Aalborg Regional Public Prosecutor upheld this decision.

2.6 Thereupon, the petitioner requested the DRC to file a criminal complaint against each member of the executive board of the Progressive Party, for violation of sections 23 and 266 (b) of the Criminal Code. On 11 December 2001, the DRC complained that Ms. Andersen, as a member of the party's executive board, had participated in a violation of section 266 (b), as a result of the press releases, newspaper invitation and comments made at the annual meeting, all described above. The DRC considered it relevant that the Progressive Party had allegedly set up courses allegedly teaching members how to avoid violations of section 266 (b), by avoiding the use of certain phrases.

2.7 On 7 January 2002, the Chief Constable of the Odense police rejected the petitioner's complaint, considering that there was no reasonable evidence to support the allegation that an unlawful act had been committed.[b] The Chief Constable considered that membership of a political party's executive does not of itself create a basis for criminal participation in relation to possible criminal statements made during the party's annual meeting by other persons.

2.8 On 22 January 2002, the DRC referred the decision to the Funen Regional Public Prosecutor, challenging the Chief Constable's rejection of the complaint on the basis stated. It contended that Ms. Andersen herself was directly involved in the dispatch of the press releases, in respect of which the Odense police had charged her with violations of section 266 (b), and that it would therefore be difficult to argue that she had not directly or indirectly called upon other party members to say similar things. Therefore, according to the DRC, the police should at a minimum have conducted an investigation to clarify these matters. On 25 January 2002, the Odense District Court convicted Ms. Andersen of offences against section 266 (b) of the Criminal Code for the publication of the press releases.

2.9 On 11 March 2002, the Funen Regional Public Prosecutor rejected the complaint, finding that neither the petitioner nor the DRC had the required essential, direct, individual or legal interest to become parties in the case. While the police had taken the view that the petitioner, on account of the nature of the complaint, his ethnic background and membership of Parliament, had standing to pursue a complaint, the State Attorney considered that these elements did not support such a conclusion.

The complaint

3.1 The petitioner argues that the decision of the Odense Chief Constable not to initiate an investigation constituted a violation of articles 2, subparagraph 1 (d), 4 and 6 of the Convention. Referring to the Committee's jurisprudence, he argues that States parties have a positive obligation to take serious, thorough and effective action against alleged cases of racial discrimination. The police decision that there was no information to suggest that Ms. Andersen incited other speakers at the annual meeting fell short of that standard, as the police did not question Ms. Andersen or any other speaker. Thus, the police could not examine issues such as whether the speeches could be seen as part of an organized attempt systematically to spread racist views, whether Ms. Andersen participated in the selection of the speakers, whether she had seen a transcript or knew of the content of the speeches, and whether she, as a member of the executive board, tried to prevent expressions of racist views.

3.2 The petitioner alleges that the decision of the Funen Regional Public Prosecutor that he had no standing violates article 6 of the Convention. He thus considers himself deprived of action in response to an act of racial discrimination to which he feels he was exposed. Even if the speeches were not directed against him, they subjected a group to which he feels connected to racial discrimination. Further, as section 266 (b) is the only criminal provision concerning racial discrimination, it is essential to hold not only individuals but also political parties, as identified by members of their executive board, responsible for expression of racist views.

3.3 As to the exhaustion of domestic remedies, the petitioner contends that under the State party's law, the Regional Public Prosecutor's decision cannot be appealed, and thus there is no possibility that the police will initiate criminal proceedings. He argues that private legal action brought by him directly against Ms. Andersen would not be effective, given that the police and

Regional Public Prosecutor had rejected this complaint. In addition, the Eastern High Court, in a decision of 5 February 1999 had decided that racial discrimination does not, in itself, infringe a person's honour and reputation in terms of section 26 of the Act on Civil Liability.

3.4 The petitioner observes that the same matter has not been submitted to another international procedure of investigation or settlement.

The State party's submissions on the admissibility and merits of the petition

4.1 By submissions of 29 January 2003, the State party disputed both the admissibility, in part, and the merits of the petition.

4.2 The State party understands the petitioner's observation on the impossibility of applying section 266 (b) to legal persons as raising a separate claim, which should be declared inadmissible for failure to present the petition to the Committee within the required six-month time limit. The Aalborg Regional Public Prosecutor's decision finally to reject the complaint against the Progressive Party was taken on 3 December 2001, more than six months prior to the submission of the petition, and this claim should therefore be declared inadmissible. The State party notes, however, that owing to an amendment to the Criminal Code, since 8 June 2002, legal persons can be held liable for offences against section 266 (b).

4.3 On the merits of the claims concerning the handling of the complaint against Ms. Andersen by the Odense Chief Constable, and in turn the Funen Regional Public Prosecutor, the State party argues that these processes fully satisfy the requirements that can be inferred from the Convention, and as interpreted in the Committee's practice. This is so even though the petitioner did not achieve the result he wanted, that is the initiation of criminal proceedings, for the Convention does not guarantee a specific outcome, but rather sets down certain requirements for the handling of such complaints, which were met in this case.

4.4 As to the decision of the Odense Chief Constable to reject the complaint against Ms. Andersen, the State party noted that, on the basis of the detailed report of the DRC to him, he had a broad basis for deciding whether there was reason for initiating a full investigation. The State party emphasizes that the Chief Constable's task was not to assess whether the statements made at the annual meeting involved a violation of section 266 (b), but whether it could reasonably be presumed that Ms. Andersen, as a member of the party's executive board, could be punished for participation in a violation of section 266 (b) on the grounds, inter alia, of statements made by third parties.

4.5 While at the time a criminal report had been filed against the speakers at the conference and criminal proceedings had been separately initiated by the petitioner against Ms. Andersen concerning the two press releases, the petitioner's complaint contained no information that Ms. Andersen had encouraged others to make criminal statements or had otherwise participated in them; rather, it simply made a general allegation that as a member of the executive board, she was criminally liable for participation, and it was in respect of this charge that the decision was made. It would have been open to the author to bring charges against the individuals who had personally engaged in the conduct in question. Accordingly, the State party finds no basis for criticizing the Chief Constable's decision concerning Ms. Andersen, and the dismissal of a report found to be without basis is consistent with the Convention.

4.6 Concerning the specific issues that the petitioner contends the Chief Constable should have investigated, the State party points out, on the argument that the police should have investigated whether the statements amounted to propaganda activities, that propaganda activity is considered an aggravating circumstance at the sentencing stage (see section 266 (b) (2)). It is not a constitutive element of the offence charged, and as it had been determined that there were not reasonable grounds to suspect that Ms. Andersen had committed an offence against section 266 (b), there was no need to investigate this aspect further.

4.7 As to the further issues that the petitioner claims should have been investigated, the State party recalls that the Chief Constable dismissed the case on the ground that membership of a party's executive committee does not per se involve criminal participation in statements made by others at a party conference. As the information given to the police supplied no basis for initiating an investigation, there was no concrete reason for presuming that Ms. Andersen was liable for criminal participation in, or encouragement of, statements made by third parties. There was no reason to investigate the matters raised further.

4.8 As to the argument of a violation of the right to an effective remedy protected by article 6 because of the refusal of the Funen Regional Public Prosecutor to consider the petitioner's case, the State party observes that the Regional Public Prosecutor found that the DRC had no material legal interest that would entitle it to appeal, and that it could not be assumed that the author had such interest. She further stated that a review of the case did not otherwise give rise to any comments and, thus, she also considered the case on the merits. As the authority superior to the Chief Constable, the Regional Public Prosecutor may, *proprio motu*, assess the correctness of a decision on the merits even when formal entitlements to appeal are not satisfied. Indeed, on the basis of the special nature of the violation, and given that section 266 (b) of the Criminal Code relates to public statements, there may well be special reason to consider the merits of a case involving a violation of section 266 (b) despite the fact that an applicant cannot be considered party to the particular proceedings. This is what transpired in the present case. As the Regional Public Prosecutor assessed the merits of the case, the State party argues that it has ensured effective protection and remedies to the petitioner, consistent with article 6 of the Convention.

4.9 The State party points out that it satisfied its obligations under article 6, in addition, by the Chief Constable's determination on whether or not an investigation should be initiated, and by providing for recourse to the independent Parliamentary Ombudsman if it was thought that the decisions of the Chief Constable or the Regional Public Prosecutor were invalid, insufficiently reasoned, or contrary to the law. In addition, under section 63 of the Constitution, decisions of administrative authorities, including the Chief Constable and the Regional Public Prosecutor, may be challenged judicially before the courts on the same grounds. While this possibility exists, the State party cannot refer to an instance where this has been resorted to.

4.10 In conclusion, the State party considers that it is not possible to infer an obligation under the Convention to carry out an investigation in situations that provide no basis for it. The Administration of Justice Act provides for the appropriate remedies in accordance with the Convention, and the competent authorities fully discharged their obligations in the specific case.

The petitioner's comments

5.1 By letter of 10 March 2003, the petitioner responded to the State party's comments, clarifying that he did not contend that the State party was in breach of article 6 by not providing for corporate liability under section 266 (b). Given this situation, however, it was of great importance that there be an effective investigation as to whether members of the executive board of a legal entity could be held responsible for the conduct in question.

5.2 On the merits, the petitioner contends that there is a breach of article 6 owing to an inability to appeal decisions of the Regional Public Prosecutor. He refers to a previous decision of the Committee to the effect that the possibility to appeal to the Parliamentary Ombudsman did not amount to an effective remedy, for purposes of article 6.[e] The Ombudsman has full discretion as to whether to pursue a case, and the State party does not refer to a single occasion where the Ombudsman has investigated a Regional Public Prosecutor's refusal to initiate an investigation. In addition, the State party's own inability to refer to a case where judicial review under the Constitution was invoked in such circumstances suggests this recourse is ineffective.

5.3 As to the Regional Public Prosecutor's review of the Chief Constable's decision, the petitioner argues that both the conduct and outcome of the appeal violated article 6. Firstly, non-mandatory review of the merits of the decision is said itself to breach article 6 of the Convention, as it does not involve a mandatory examination of the case. Even though the Regional Public Prosecutor reviewed the merits, it is unclear to the petitioner why "the case did not otherwise give rise to any comments" and why the actual ground for dismissal of the appeal was a lack of standing. Thus, the rejection of the appeal also breached article 6.

5.4 The petitioner agrees that article 6 does not guarantee a specific outcome of a given case. However, his case relates not to the outcome of the investigation, but to the investigation itself. He disagrees that the Chief Constable's decision not to initiate an investigation was "acceptable", as it was based on the detailed DRC report. In his view, the Chief Constable did not ascertain important issues; in particular, the fact that Ms. Andersen had already been indicted for disseminating racist views, made an investigation into possibly organized and systematic conduct on the part of the executive board members important.

5.5 The petitioner rejects the contention that the DRC report contained only a "general allegation" against Ms. Andersen, as it specifically detailed an alleged criminal offence. An effective investigation would have required at least questioning the alleged perpetrator before deciding whether or not to prosecute. In addition, if membership of the executive board did not itself imply complicity in criminal conduct of the party or its members, and no complaint could be directed against the party itself, there was all the more reason individually to assess the extent, if any, of Ms. Andersen's role in the alleged acts of racial discrimination.

5.6 The petitioner observes that criminal complaints were indeed brought against the individuals personally responsible for the conduct in question, as suggested by the State party, but contends that this does not affect the issue of Ms. Andersen's alleged participation therein, or the effectiveness of the investigation in respect of the charges against her. He thus considers that the State party has failed to show that the decision not to conduct an investigation, the Regional Public Prosecutor's rejection on formal grounds of the appeal against the Chief Constable's decision, and the inability to appeal the Regional Public Prosecutor's decision were consistent with articles 4 and 6 of the Convention.

Issues and proceedings before the Committee

Consideration of admissibility

6.1 Before considering any claims contained in a petition, the Committee on the Elimination of Racial Discrimination must, in accordance with rule 91 of its rules of procedure, decide whether or not it is admissible under the Convention.

6.2 The Committee notes that the petitioner disclaims any contention that the inability, at the material time, to file a criminal complaint of racial discrimination was in violation of the Convention. Thus, the Committee need not decide whether such a claim would be inadmissible with reference to the six-month rule applicable to the time frame within which a petition may be brought. In the absence of any further objections to the admissibility of the petition, the Committee declares it admissible and proceeds to its examination of the merits.

Consideration of the merits

7.1 Acting under article 14, paragraph 7 (a), of the International Convention on the Elimination of All Forms of Racial Discrimination, the Committee has considered the information submitted by the petitioner and the State party.

7.2 The Committee notes that the present case involves two different sets of acts by different actors: on the one hand, Ms. Andersen herself transmitted press releases by facsimile, in respect of which she was subsequently convicted; on the other hand, speakers at the party conference (of which Ms. Andersen was not one) made the series of racist statements, contrary to article 4 (b) of the Convention, described in paragraph 2.4, concerning which criminal complaints were lodged (see paragraph 5.6).

7.3 Against this background, the Committee considers that given the complaint against Ms. Andersen in connection with the party conference was not accompanied by any evidence suggesting that she was an accomplice soliciting, directing, or otherwise procuring the speakers at the party meeting to engage in the impugned conduct, it is reasonable to conclude, as did the State party's authorities, that the complaint did not make out a case that Ms. Andersen, as opposed to the speakers themselves, had engaged in any act of racial discrimination; indeed, as a matter of criminal law, liability of a member of a party's executive board could not attach, without additional evidence, in respect of statements made by third parties.

7.4 In the Committee's view, this case may accordingly be distinguished from previous cases where, on the facts, the Committee has on occasion considered that an investigation into the alleged acts of racial discrimination that had taken place was insufficient for the purposes of article 6.[d] In each of those cases, in fact, the investigation was in respect of the individual(s) directly committing the alleged act of racial discrimination, rather than a third party, with the result that *no* person was held criminally responsible for the acts in question; in the present case, on the other hand, criminal complaints *were* lodged against those directly responsible. It cannot therefore be considered that there was no effective action taken in response to the acts in question.

7.5 As to the review of the decisions not to prosecute in the present case, the Committee refers to its jurisprudence that "the terms of article 6 do not impose upon States parties the duty to institute a mechanism of sequential remedies" in cases of alleged racial discrimination.[e] Accordingly, even if article 6 might be interpreted to require the possibility of judicial review of a decision not to bring a criminal prosecution in a particular case alleging racial discrimination, the Committee refers to the State party's statement that it is open, under national law, judicially to challenge a prosecutor's decision.

8. The Committee on the Elimination of Racial Discrimination, acting under article 14, paragraph 7, of the Convention, is of the opinion that the facts before it do not disclose a violation of the Convention insofar as the State party's action with respect to Ms. Anderson is concerned.

9. In the light of the State party's obligation under article 4 (b) of the Convention, however, the Committee would wish to remain apprised as to the results of the criminal complaints lodged against the speakers at the party political conference in view of the racist nature of their remarks, contrary to article 4 (b) of the Convention. The Committee draws the attention of the State party to the need to balance freedom of expression with the requirements of the Convention to prevent and eliminate all acts of racial discrimination, particularly in the context of statements made by members of political parties.

Notes

[a] Section 266 (b) of the Criminal Code provides as follows:

> "(1) Any person who, publicly or with the intention of wider dissemination, makes a statement or imparts other information by which a group of people are threatened, insulted or degraded on account of their race, colour, national or ethnic origin, religion, or sexual inclination shall be liable to a fine or to imprisonment for any term not exceeding two years.
>
> "(2) When the sentence is meted out, the fact that the offence is in the nature of propaganda activities shall be considered an aggravating circumstance."

[b] The relevant sections of the Administration of Justice Act regulating the investigation of criminal complaints provide as follows:

> 742 (2): "The police shall institute investigations upon a [criminal] report lodged or on its own initiative, when it may reasonably be presumed that a criminal offence subject to prosecution has been committed."
>
> 743: "The purpose of the investigation is to clarify whether the conditions for imposing criminal liability or other legal consequences under criminal law are fulfilled, and to provide information for use in the determination of the case and prepare the conduct of the case before the court."

749 (1): "The police shall dismiss a report lodged if it deems that there is no basis for initiating investigation."

[c] Case No. 10/1997, *Habassi v. Denmark*, Opinion adopted on 17 March 1999.

[d] See for example, Case No. 16/1999, *Ahmad v. Denmark*, Opinion adopted on 13 March 2000 and *Habassi*, ibid.

[e] Case No. 1/1984, *Dogan v. The Netherlands*, Opinion adopted on 10 August 1988, paragraph 9.4 (finding no violation of article 6).

Decision concerning communication No. 28/2003

Submitted by: The Documentation and Advisory Centre on Racial Discrimination

Alleged victim: The petitioner

State party: Denmark

Date of communication: 3 December 2002 (initial submission)

Decision on admissibility

1.1 The petitioner is the Documentation and Advisory Centre on Racial Discrimination, represented by Fakhra Mohammad, who is the head of the board of trustees of the Centre. The petitioner alleges violations by Denmark of articles 2, paragraph 1 (d), 4, 5 and 6 of the Convention.

1.2 In conformity with article 14, paragraph 6 (a), of the Convention, the Committee transmitted the communication to the State party on 14 April 2003.

The facts as submitted by the petitioner

2.1 On 27 January 2002, a private company, Torben Jensen A/S, published a job advertisement in the Danish newspaper *Jyllands Posten*. The advertisement read as follows:

> "The construction company BAC SIA seeks
> Danish foreman
>
> who, in cooperation with a Latvian construction expert, will be assigned the general responsibility of renovating and constructing a larger agricultural building approximately 80 kilometres from Riga."

2.2 By letter of 30 January 2002, the petitioner reported the incident to the Chief Constable of the police in Vejle, the district where "Torben Jensen A/S" was located. In the letter, the petitioner alleged a violation by the company of section 5[a] of Act No. 459 of 12 June 1996 on prohibition against discrimination in respect of employment and occupation etc. on the labour market, arguing that the words "Danish foreman" in the advertisement amounted to discrimination on the grounds of national or ethnic origin.

2.3 On 5 February 2002, the police interviewed Mr. E.H., accountant of "Torben Jensen A/S". On the basis of this interview, the Chief Constable, by letter of 13 March 2002, informed the petitioner that he had decided to dismiss the complaint:

> "In my decision, I have notably given weight to the fact that, based on the police's questioning of Torben Jensen, and, moreover, from reading the advertisement, it is, in my view, quite clear that there is no violation of the said Act. What is sought for the position in Latvia is a Danish resident, and this person could easily be of an ethnicity other than Danish. In the worst case, it is a matter of an unfortunate choice of words, but not of a content which constitutes grounds for further action in this case."

2.4 On 22 March 2002, the petitioner appealed the Chief Constable's decision to the Regional Public Prosecutor of Sønderborg. According to the petitioner, it was irrelevant whether the company had actually intended to recruit a Danish resident, as the decisive question under section 5 of Act No. 459 was whether the wording of the job advertisement could be perceived as indicating a preference for a foreman of Danish origin. Since section 5 also criminalizes negligence, this provision would also be violated if the unintended effect of the advertisement had been to exclude a group defined by one of the criteria enumerated in section 1, paragraph 1[b] of the same Act from applying for the job. However, the Chief Constable did not appear to have investigated this possibility. Moreover, the petitioner contested that the term "Danish foreman" was supposed to refer to a Danish resident, as such residence could not be regarded as a logical requirement for a construction job in Latvia and because it followed from the publication of the advertisement in a Danish newspaper that the group of recipients would essentially be limited to Danish residents in any event.

2.5 By letter of 3 June 2002, the Regional Public Prosecutor of Sønderborg informed the petitioner that he had dismissed the appeal, based on the same reasons as those mentioned in the decision of the Chief Constable.

2.6 On 3 December 2002, "the Documentation and Advisory Centre on Racial Discrimination [represented] by Fakhra Mohammad, head of the board of trustees", submitted the present communication.

The complaint

3.1 The petitioner claims that, as the head of the board of trustees, Ms. Mohammad "represents the [Documentation and Advisory Centre] when complaints are filed in her name". Although neither Ms. Mohammad nor any other person of non-Danish origin applied for the advertised job, she should be considered a victim of the discriminatory advertisement, since it would have been futile for her to apply for the post. Moreover, the petitioner itself should be recognized as having status of victim under article 14 of the Convention, since it represents "a large group of persons of non-Danish origin discriminated against by the job advertisement in question". In support of this claim, the petitioner states that both the police and the Regional Public Prosecutor have accepted it as a party to domestic proceedings.

3.2 The petitioner claims to have exhausted domestic remedies, as there is no possibility to appeal the decision of the Regional Public Prosecutor of 3 June 2002, and since the case cannot be brought before the Danish courts. Direct legal actions against Torben Jensen A/S would be ineffective, given that the police and the Regional Public Prosecutor both rejected the complaint. Moreover, the Eastern High Court, in a decision of 5 February 1999, held that an incident of racial discrimination does not in itself constitute a violation of the honour and reputation of a person, within the meaning of section 26 of the Act on Civil Liability.

3.3 The petitioner claims that the State party has violated its obligations under articles 4 and 6 of the Convention, as it failed to investigate whether the job advertisement constituted an act of racial discrimination, punishable under section 5 of Act No. 459, and instead admitted the company's explanation that what was meant by "Danish foreman" was a person residing in Denmark. In particular, the State party should have investigated the following questions: (i) whether the person eventually employed was of Danish national/ethnic origin; (ii) whether the intended meaning of the advertisement should be taken into account; (iii) whether the explanation provided by Torben Jensen A/S was logical; (iv) whether the publishing of the advertisement constituted indirect discrimination; and (v) whether the publishing of the advertisement was punishable as negligence.

3.4 The petitioner argues that the company's alleged intention to recruit a Danish resident was irrelevant, since the objective meaning of the term "Danish" in the advertisement clearly related to the national/ethnic origin of the person sought. The de facto effect of the advertisement thus was to deprive applicants of non-Danish origin of equal opportunities. Whether this effect was intended played no role, since section 5 of Act No. 459 also criminalized negligence. Moreover, it followed from section 1, paragraph 1, of the Act that section 5 also covered indirect discrimination, a modality which the Danish authorities had equally failed to investigate.

3.5 In addition, the petitioner contests that the term "Danish foreman" was used as a synonym for "Danish resident" by the company, and reiterates the arguments already stated before the Regional Public Prosecutor (see paragraph 2.4 above).

The State party's submission on the admissibility and merits of the communication

4.1 By note verbale of 7 July 2003, the State party made its submissions on the admissibility and, subsidiarily, on the merits of the communication.

4.2 On admissibility, the State party denies that the petitioner has legal standing to submit a communication under article 14, paragraph 1, of the Convention, as it is a legal entity and not an individual or group of individuals. As such, the petitioner is not in a position to claim that it is the victim of a violation of any of the rights set forth in the Convention. Furthermore, the petitioner failed to present its power of attorney from one or more individuals, claiming to be victims of such a violation, which would authorize it to submit a communication on their behalf. The State party concludes that the communication is inadmissible *ratione personae* under article 14, paragraph 1, of the Convention.

4.3 While conceding that the decision of the Regional Public Prosecutor acting on appeal cannot be appealed to a higher authority, and that private parties cannot bring charges under section 5 of Act No. 459 before the courts, the State party denies that the petitioner has exhausted available domestic remedies, since such remedies have to be exhausted by the petitioners themselves and not by other organizations or individuals. The fact that the petitioner participated in domestic proceedings by lodging a complaint with the Danish authorities was irrelevant, given that the petitioner, being a legal person, had no victim status under the Convention. The State party concludes that the communication is also inadmissible under article 14, paragraph 7 (a), of the Convention.

4.4 The State party further argues that the determination made by the Chief Constable and the Regional Public Prosecutor that the requirements of section 5 of Act No. 459 were not met in the present case was primarily a matter of interpretation and application of domestic legislation, which the Committee has no competence to review. The communication is therefore also incompatible *ratione materiae* with the Convention.

4.5 Subsidiarily and on the merits, the State party submits that the petitioner has failed to substantiate that the Danish legislation as such was not in conformity with its obligations under article 4 of the Convention. On the contrary, the communication was based on the assumption that the Danish authorities did not apply Act No. 459 correctly.

4.6 The State party argues that, while requiring that an investigation must be carried out with due diligence and expedition and must be sufficient to determine whether or not an incident of racial discrimination has occurred, article 6 of the Convention does not guarantee the initiation, let alone a specific outcome, of such an investigation in all cases reported to the police. If no basis can be found to initiate an investigation, it is not contrary to the Convention to dismiss a complaint. In the present case, the decisions of the Danish authorities were based on sufficient information, namely the interview of the company's accountant by a police constable. This was also reflected by the fact that the petitioner did not consider further information necessary to determine that the advertisement was in violation of section 5 of Act No. 459. However, the above question again related to the interpretation and practical application of the Danish legislation, thus falling outside the Committee's competence.

4.7 With regard to the specific questions raised by the petitioner (see paragraph 3.3 above), the State party argues: (i) that the employment of a person of Danish origin or ethnicity in Denmark cannot in itself be considered to substantiate an allegation of discrimination; (ii) that the intention of Torben Jensen A/S was relevant to the interpretation of the wording of the advertisement, while its legal assessment falls outside the traditional field of police investigation; (iii) that the question of whether the explanation provided by the company was convincing also is not a matter of traditional police investigation, but rather a matter of assessing critically the information already provided by the police, as well as by the petitioner; (iv) that the questions whether the advertisement constituted indirect discrimination or negligence, punishable under section 5 of the Act, was not for the police to investigate, since it related to the application and interpretation of Danish legislation and therefore cannot be reviewed by the Committee.

4.8 Without prejudice to the above arguments, the State party submits that the Chief Constable and the Regional Public Prosecutor of Sønderborg made a correct assessment when they considered that the adjective "Danish" in the advertisement referred to Danish residents, since the nature of the relationship to Denmark required by that wording was not precisely determined. The advertisement was therefore not covered by section 5 of the Act, given that a Danish resident may be of any ethnicity or national origin.

4.9 The State party concludes that article 6 has not been violated, as the petitioner had access to effective remedies, resulting in decisions of the Danish authorities which were taken on an adequate and informed basis in accordance with the requirements of the Convention.

Comments by the petitioner

5.1 By submission of 18 July 2003, the petitioner commented on the State party's observations and extended the claim contained in the communication of 3 December 2002 to the effect that the State party's alleged failure to carry out an effective investigation also amounted to a violation of articles 5 and 2, paragraph 1 (d), in addition to the initial claim of a violation of articles 4 and 6, of the Convention.

5.2 While conceding that the communication was submitted "by Fakhra Mohammad acting as the head of the board of trustees" of the Documentation and Advisory Centre and therefore "by a legal person", the petitioner contests the State party's conclusion that legal entities cannot file communications, nor claim victim status, under article 14 of the Convention. The petitioner argues that it follows from the *travaux préparatoires* to the Convention that the words "individuals or groups of individuals" in article 14, paragraph 1, should be interpreted broadly so as to be able to include non-governmental organizations among those entitled to bring a complaint before the Committee.

5.3 As to the status of victim, the petitioner submits that such status cannot, under section 5 of Act No. 459, be restricted to one or more individuals, since that provision generally criminalizes discrimination of non-Danish applicants in job advertisements, thereby protecting everyone of non-Danish origin against such discrimination. Given the petitioner's specific mandate to assist victims of racial discrimination, the ethnic composition of its board of trustees,[b] as well as its record in representing alleged victims of racial discrimination before the Committee, it should be considered as a victim or as representing an unspecified number of unidentified victims of a violation of section 5 of the Act and, accordingly, of articles 2, 4, 5 and 6 of the Convention. The petitioner concludes that the communication is admissible *ratione personae* under article 14 of the Convention, reiterating that the Chief Constable and the Regional Public Prosecutor recognized it as a party to domestic proceedings (either as a victim or as having a particular interest in the outcome of the case), which was reflected by the fact that its appeal to the Regional Public Prosecutor had not been dismissed on procedural grounds.

5.4 The petitioner submits that it has exhausted all available domestic remedies in its capacity as petitioner or as representative of "a large group of non-identifiable petitioners". The petitioner also argues that the communication is admissible *ratione materiae*, as it does not relate to the legal assessment of the alleged incident, but to the absence of an effective investigation by the Danish authorities, which would have provided an adequate factual basis for such an assessment.

5.5 With regard to the alleged violations of articles 2, 4, 5 and 6 of the Convention, the petitioner similarly bases the claim on the lack of an effective investigation into the matter, rather than on the legal assessment by the Danish authorities. However, it is argued that the Chief Constable would not have reached the conclusion that a Danish resident was sought for the advertised post in Latvia, irrespective of the national or ethnic origin of that person, if he had initiated a formal investigation, rather than merely relying on an informal interview of the accountant of Torben Jensen A/S, on the report filed by the petitioner and on the wording of the job advertisement. Such an investigation should have clarified who had eventually been recruited for the advertised post, since such clarification would at least have indicated whether an act of discrimination had occurred, and would have provided an adequate basis for determining whether the advertisement constituted indirect discrimination.

Issues and proceedings before the Committee

6.1 Before considering the substance of a communication, the Committee on the Elimination of Racial Discrimination must, in accordance with rule 91 of its rules of procedure, examine whether or not the communication is admissible.

6.2 The Committee notes that the communication has been submitted by the Documentation and Advisory Centre on Racial Discrimination. It further notes that, in its submissions of 18 July 2003, the petitioner clarified that Fakhra Mohammad, acting as the head of the board of trustees, represented the Documentation and Advisory Centre when initially submitting the communication.

6.3 The Committee takes note of the State party's objection that, as a legal person rather than an individual or a group of individuals, the petitioner is not entitled to submit a communication or to claim victim status under article 14, paragraph 1. It equally notes the petitioner's argument that article 14, paragraph 1, should be interpreted broadly to enable non-governmental organizations to bring a complaint before the Committee, and that it should be considered as a victim of a "violation of articles 2, 4, 5 and 6 of the Convention or as representing a large group of unidentified victims", i.e. persons of non-Danish origin who were discriminated against by the job advertisement in question.

6.4 The Committee does not exclude the possibility that a group of persons representing, for example, the interests of a racial or ethnic group may submit an individual communication, provided that it is able to prove that it has been an alleged victim of a violation of the Convention or that one of its members has been a victim, and if it is able at the same time to provide due authorization to this effect.

6.5 The Committee notes that, according to the petitioner, no member of the board of trustees applied for the job. Moreover, the petitioner has not argued that any of the members of the board, or any other identifiable person whom the petitioner would be authorized to represent, had a genuine interest in, or showed the necessary qualifications for, the vacancy.

6.6 While section 5 of Act No. 459 prohibits discrimination of all persons of non-Danish origin in job advertisements, whether they apply for a vacancy or not, it does not automatically follow that persons not directly and personally affected by such discrimination may claim to be victims of a violation of any of the rights guaranteed in the Convention. Any other conclusion would open the door for popular actions (*actio popularis*) against the relevant legislation of States parties.

6.7 In the absence of any identifiable victims personally affected by the allegedly discriminatory job advertisement, whom the petitioner would be authorized to represent, the Committee concludes that the petitioner has failed to substantiate, for purposes of article 14, paragraph 1, its claim that it constitutes or represents a group of individuals claiming to be the victim of a violation by Denmark of articles 2, paragraph 1 (d), 4, 5 and 6 of the Convention.

7. The Committee on the Elimination of Racial Discrimination therefore decides:

(a) That the communication is inadmissible *ratione personae* under article 14, paragraph 1, of the Convention;

(b) That this decision shall be communicated to the State party and to the petitioner.

Notes

[a] Section 5 of Act No. 459 of 5 July 1999 reads: "Advertisements may not indicate that a person of a particular race, colour, religion, political opinion, sexual orientation or national, social or ethnic origin is sought or preferred. Nor must it be indicated that a person with the characteristics mentioned in the first clause of this section is not wanted."

[b] Section 1, paragraph 1, of Act No. 459 reads: "For the purpose of this Act, the term 'discrimination' means any direct or indirect discrimination on the basis of race, colour, religion, political opinion, sexual orientation or national, social or ethnic origin."

Annex IV

OVERVIEW OF THE METHODS OF WORK OF THE COMMITTEE*

A. General debate

The Committee will consider whether it is appropriate to devote one meeting of its session, or a part thereof, to a general debate on situations or aspects relating to the International Convention on the Elimination of All Forms of Racial Discrimination, as well as to the implementation of the Durban Declaration and Programme of Action of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

With a view to guiding this general debate, the Committee may at the preceding session identify the situations or aspects on which the discussion should preferably be focused.

B. The Committee's relations with national human rights institutions and non-governmental organizations

(a) Accredited national human rights institutions, on the one hand, and non-governmental organizations, on the other hand, may provide information on issues relating to the consideration of reports of States parties, on a personal level and in informal meetings outside the Committee's working hours, to members of the Committee wishing to attend such meetings, as well as respond to requests to clarify or supplement such information.

(b) The secretariat will inform accredited national human rights institutions, on the one hand, and non-governmental organizations, on the other hand, about the Committee's programme of work for the respective session and will provide them with copies of the reports due to be considered by the Committee.

(c) The Committee may organize, when it deems appropriate, informal meetings with representatives of accredited national human rights institutions, on the one hand, and non-governmental organizations, on the other hand, on issues of major importance for the implementation of the Convention. The Committee will determine the agenda and the modalities of such meetings. States parties will be invited to attend.

C. Thematic debates

The Committee may consider whether it is appropriate to hold debates on specific themes in order to specify the extent of its responsibilities under the Convention, as well as to provide States parties with guidelines for the better and more complete fulfilment of their obligations.

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* This document complements and/or amends chapter IX, entitled "Overview of the methods of work of the Committee", of the report of the Committee on the Elimination of Racial Discrimination on its forty-eighth and forty-ninth sessions. *Official Records of the General Assembly, Fifty-first Session, Supplement No. 18* (A/51/18), paras. 587-627.

D. Early-warning measures and urgent procedures

The Committee may decide to set up a working group to consider the status of implementation of its decisions and recommendations under the early-warning measures and urgent procedures and to make suggestions in this respect. The working group may also be charged with suggesting appropriate measures to reactivate these mechanisms, indicating the situations or cases to which these measures or procedures may be applied.

E. Meetings of chairpersons of the human rights treaty bodies and inter-committee meetings

While recognizing the responsibility of the Committee's Chairman and without prejudice to his functions, and recognizing the responsibility of the members attending inter-committee meetings, the Committee may suggest issues or topics for consideration at those meetings.

F. Cooperation of the Committee with other bodies

The Committee will keep channels open for exchanging information with the other treaty bodies, the Commission on Human Rights and other organs and bodies of the United Nations system that in one way or another consider aspects relevant to the work carried out by the Committee. This interchange of information will likewise be extended to international or regional mechanisms or bodies entrusted with monitoring the observance of and respect for human rights, particularly in matters covered by the Convention or the Durban Declaration and Programme of Action.

To this end, the Committee will re-establish the practice of appointing members to liaise with bodies or mechanisms specifically established for that purpose.

The members so appointed will report briefly to the Committee.

G. Reports of States parties

In order to facilitate the work of the Committee, States parties are once again requested to ensure that the reports correspond strictly to the provisions of the Convention and that they are drafted in accordance with the guidelines adopted by the Committee.

States parties are invited to submit reports that are as succinct and concise as possible.

H. Presence of the delegation of the State party

The relevance and effectiveness of the dialogue that the Committee holds with States parties concerning the reports before it are reinforced by the presence of a delegation whose members have competence in the matters covered in the report and, in general, for the implementation of the Convention.

States parties are therefore invited, whenever possible, to include such representatives in their delegations. States parties are also invited to transmit any request for the deferment of consideration of a report to the Committee as soon as they are notified of the date on which the report is due to be considered. Such timely information will help the Committee in rescheduling its work.

I. Introductory presentation by the State party's representative

The representative of the State party, when introducing the report to be considered, is invited to draw the Committee's attention to the most important aspects of the document and also to provide additional information concerning new data or aspects that are not reflected in the report, concentrating on matters relating to the Committee's mandate. This presentation should not exceed 30 minutes.

J. Action of country rapporteurs

The country rapporteurs, in presentations that should also not exceed 30 minutes, must highlight aspects relevant to the fulfilment of the obligations arising under the Convention, and also those where shortcomings or deficiencies are apparent. They will also put questions aimed at supplementing the information received and ensuring greater clarity or precision with respect to the information received. These questions may be conveyed to the State party beforehand.

K. Interventions by members of the Committee

The members of the Committee, when commenting on or analysing a report, should endeavour not to repeat the country rapporteur's comments, observations or questions, except to emphasize certain aspects. These interventions should not exceed 10 minutes.

L. Reply of the State party's representative

The replies of the State party's representative to the comments, observations, questions and requests for clarification of members of the Committee are a fundamental part of the dialogue between the Committee and the reporting State. The representative is invited to reply as precisely as possible, although some questions may need to be referred back to the Government concerned for consultation, and the replies or clarifications in this respect can be included in the next periodic report.

The Chairman of the Committee will conduct this part of the dialogue in such a way that the State party's representative has sufficient time to provide his or her replies without affecting the continuation of the Committee's normal work.

Members of the Committee may intervene after hearing the replies of the State party's representative in order to request further explanations or clarifications. The representative is invited to provide this additional information, if available; otherwise, it may be included in the next periodic report.

M. The Committee's concluding observations

The members of the Committee are advised to review carefully the draft concluding observations presented by the country rapporteur and to pass on their amendments or suggestions to the rapporteur, who is responsible for revising the text. This will facilitate their consideration by the full Committee.

Once the text of the concluding observations/recommendations has been approved by the Committee, the secretariat will forward them to the State party concerned and then to other interested parties.

The meetings of the Committee to adopt the concluding observations will be held in private.

N. Written comments by the State party

Under article 9 of the Convention, States parties are entitled to make comments on the suggestions or recommendations made by the Committee after the consideration of the report concerned, and such comments must be included in the annual report of the Committee to the General Assembly.

When such comments are very extensive, the Committee may invite the State party to summarize them for publication in its annual report.

[O. Follow-up to the Committee's concluding observations/recommendations]

P. Action in cases where States parties fail to comply with their reporting obligations

Since reporting by States parties is the fundamental mechanism by which the Committee discharges fully its obligation to monitor the observance of obligations under the Convention, the Committee has adopted special procedures for considering the situation of States parties that have not submitted even an initial report, or whose reports are considerably overdue.

The Committee, through its observations and recommendations with respect to States parties in such a situation, draws the attention of the State party concerned to the consequences of such non-compliance and reminds it of its reporting obligations under article 9 of the Convention. It furthermore makes recommendations to the State party with a view to ensuring the implementation of the Convention. The Committee includes a special chapter on such cases in its annual report to the General Assembly for the Assembly to take what action it deems appropriate.

Q. Country presentations

The Committee will be provided by the secretariat, well in advance of the session, with country presentations concerning the States parties whose periodic reports are due to be considered by the Committee, or the States parties scheduled for examination under the review procedure. These presentations, to be treated as confidential documents, should contain a summary of the information available on the country in connection with the periodic reports.

R. Consideration of communications under article 14

In accordance with the established procedure, the Committee appoints an open-ended working group to study the communications which it receives under article 14 of the Convention and to make recommendations in this respect to the full Committee.

S. Timely receipt of reports and other documentation

The secretariat of the Committee must take the necessary steps to make the reports of States parties and any other relevant documentation available to the members of the Committee as far in advance as possible in order to facilitate their study of the reports and enable them adequately to prepare any comments, observations or questions they may wish to make.

T. Missions by members of the Committee to States parties

The members of the Committee stand ready to undertake missions to States parties, with the consent of the Government of the State party concerned, in order to assist where their presence would be useful in facilitating better implementation of the Convention.

The Committee appoints one or more members to undertake such missions. When an invitation for a mission is received between meetings of the Committee, the Chairman will request one or more members to undertake the mission, after consulting the members of the Bureau. Members of the Committee participating in such a mission will report to the Committee at its next session.

Annex V

DOCUMENTS RECEIVED BY THE COMMITTEE AT ITS SIXTY-SECOND AND SIXTY-THIRD SESSIONS IN CONFORMITY WITH ARTICLE 15 OF THE CONVENTION

The following is a list of the working papers referred to in chapter V submitted by the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples:

A/AC.109/2002/2 and Add.1	**Pitcairn**
A/AC.109/2002/3	**Anguila**
A/AC.109/2002/4	**United States Virgin Islands**
A/AC.109/2002/5	**St. Helena**
A/AC.109/2002/6	**Tokelau**
A/AC.109/2002/7	**Cayman Islands**
A/AC.109/2002/8	**Guam**
A/AC.109/2002/9	**British Virgin Islands**
A/AC.109/2002/10	**Western Sahara**
A/AC.109/2002/11	**Gibraltar**
A/AC.109/2002/12	**American Samoa**
A/AC.109/2002/13	**New Caledonia**
A/AC.109/2002/14	**Turks and Caicos Islands**
A/AC.109/2002/15	**Bermuda**
A/AC.109/2002/16 and Corr.1 and Corr.2	**Falkand Islands (Malvinas)**
A/AC.109/2002/17	**Montserrat**

Annex VI

COUNTRY RAPPORTEURS FOR REPORTS OF STATES PARTIES CONSIDERED BY THE COMMITTEE AT ITS SIXTY-SECOND AND SIXTY-THIRD SESSIONS

Initial and periodic reports considered by the Committee	Country rapporteur
Albania Initial to fourth periodic reports (CERD/C/397/Add.1)	Mr. de Gouttes
Bolivia Fourteenth to sixteenth periodic reports (CERD/C/409/Add.3)	Mr. Valencia Rodríguez
Cape Verde Third to twelfth periodic reports (CERD/C/426/Add.1)	Mr. Lindgren Alves
Côte d'Ivoire Fifth to sixteenth periodic reports (CERD/C/382/Add.2)	Mr. Thiam
Czech Republic Fifth periodic report (CERD/C/419/Add.1)	Mr. Sicilianos
Ecuador Thirteenth to sixteenth periodic reports (CERD/C/384/Add.8)	Mr. Tang Chengyuan
Fiji Sixth to fifteenth periodic reports (CERD/C/429/Add.1)	Ms. January-Bardill
Finland Sixteenth periodic report (CERD/C/409/Add.2)	Mr. Herndl
Ghana Sixteenth and seventeenth periodic reports (CERD/C/431/Add.3)	Mr. Pillai

Initial and periodic reports considered by the Committee	Country rapporteur
Islamic Republic of Iran Sixteenth and seventeenth periodic reports (CERD/C/431/Add.6)	Mr. Bossuyt
Republic of Korea Eleventh and twelfth periodic reports (CERD/C/426/Add.2)	Mr. Tang Chengyuan
Latvia Fourth and fifth periodic reports (CERD/C/398/Add.2)	Mr. Kjaerum
Morocco Fourteenth to sixteenth periodic reports (CERD/C/430/Add.1)	Mr. Amir
Norway Sixteenth periodic report (CERD/C/430/Add.2)	Mr. Yutzis
Poland Fifteenth and sixteenth periodic reports (CERD/C/384/Add.6)	Mr. Reshetov
Russian Federation Fifteenth to seventeenth periodic reports (CERD/C/431/Add.2)	Mr. Thornberry
Saint Vincent and the Grenadines Second to tenth periodic reports (CERD/C/378/Add.1)	Mr. Thornberry
Saudi Arabia Initial and second periodic reports (CERD/C/370/Add.1)	Mr. Bossuyt
Slovenia Fifth periodic report (CERD/C/398/Add.1)	Mr. Herndl
Tunisia Thirteenth to seventeenth periodic reports (CERD/C/431/Add.4)	Mr. Lindgren Alves

Initial and periodic reports considered by the Committee	Country rapporteur
Uganda **Second to tenth periodic reports** **(CERD/C/358/Add.1)**	**Mr. Valencia Rodriguez**
United Kingdom of Great Britain and Northern Ireland **Sixteenth and seventeenth periodic reports** **(CERD/C/430/Add.3)**	**Mr. Pillai**

Annex VII

COMMENTS OF STATES PARTIES ON THE DECISIONS AND CONCLUDING OBSERVATIONS ADOPTED BY THE COMMITTEE AND REPLIES OF THE COMMITTEE

Sixteenth and seventeenth periodic reports of the Islamic Republic of Iran

The following comments were sent on 28 August 2003 by the Permanent Representative of the Islamic Republic of Iran to the United Nations Office at Geneva concerning the concluding observations adopted by the Committee following the consideration of the sixteenth and seventeenth periodic reports submitted by the State party:*

> "The Government of the Islamic Republic of Iran expresses its gratitude to the Committee on the Elimination of Racial Discrimination for the opportunity it has provided for a constructive dialogue between the Iranian delegation and the members of the Committee during the consideration of Iran's sixteenth and seventeenth reports to the Committee.
>
> "Having attentively considered the Committee's observations contained in the above-mentioned document, the Islamic Republic of Iran would like to make the following comments:
>
>> "1. In paragraph 10 of the concluding observations, the Committee noted 'that the status of the Convention in Iran's domestic law is unclear'. This issue was dealt with in length by both the Iranian delegation and in paragraph 45 of Iran's report to the Committee (CERD/C/431/Add.6). However, we yet again bring to the attention of the Committee that according to article 9 of the Civil Code of the Islamic Republic of Iran, regulations under treaties signed by the Government in accordance with the Constitution are legally binding. Therefore, all provisions of the International Convention on the Elimination of All Forms of Racial Discrimination, including article 4, are automatically incorporated into Iranian domestic legislation without further need for new legislations, and constitute legal reference in court.
>>
>> "In the second part of the same paragraph of the concluding observations, the Committee wished 'to know whether the Convention has been endorsed by the Guardian Council'. We would like to draw the attention of the Committee to the fact that Iran has been a party to the Convention since 1968 after submitting its instrument of ratification to the then Secretary-General of the United Nations. The Guardian Council was established according to he new Constitution which came into existence after the Islamic Revolution in 1979. Provisions of the new

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* See paragraphs 415-436 of the present report. The comments refer to the unedited version of the concluding observations.

Constitution are not retrospective and thus conventions ratified before the existence of the new Constitution do not need the endorsement of the Guardian Council. Therefore, these conventions, including the International Convention on the Elimination of All Forms of Racial Discrimination, are legally binding and can be invoked in domestic courts.

"2. As to paragraph 11 of the concluding observations on the lack of full conformity of article 19 of the Iranian Constitution with the definition of racial discrimination contained in the Convention, it should be noted that grounds for and types of discrimination according to article 19 of the Iranian Constitution are, in a way, broader than that mentioned in the Convention itself. In article 19 of the Constitution grounds for and types of discrimination are named as 'colour, race, language and the like'. Actually, the phrase 'the like' covers all grounds for and types of discrimination which are in the Convention, including descent [and] national or ethnic origin, although they are not explicitly mentioned in the Constitution.

"3. In the last part of paragraph 12 of the concluding observations, the Committee expressed concern that 'no reference has been made to the compliance of the State party's legislation with article 4 (b) of the Convention'. Responding to the concern of the Committee, we would like to state that according to article 4 (b) States 'shall declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, and shall recognize participation in such organizations or activities as an offence punishable by law'. This request of the Convention was fully complied with by Iran through the ratification of the Bill for the Punishment of the Propagation of Racial Discrimination in 1977. The full text of the Bill is available in paragraphs 46 and 47 of the sixteenth and seventeenth periodic reports of the Islamic Republic of Iran to the Committee contained in document CERD/C/431/Add.6.

"4. The Islamic Republic of Iran deeply regrets that the Committee in paragraph 14 of its concluding observations dealt with an issue which is totally beyond the mandate entrusted to it by the Convention. During the consideration of the reports, the Iranian delegation, along with some members of the Committee, repeatedly requested that the mandate of the Convention be meticulously observed, and appealed to the distinguished Country Rapporteur and certain members of the Committee to conform to the definition of racial discrimination as contained in the Convention and to refrain from taking issues related to the other types of minorities which are under the competence of other treaty bodies. The Islamic Republic of Iran is of the view that expansion of the competence of the Committee to consider discriminations other than those contained in the Convention requires the approval by the States parties, which does not exist as yet."

Eleventh and twelfth periodic reports of the Republic of Korea

The following comments were sent on 26 August 2003 by the Permanent Representative of the Republic of Korea to the United Nations Office at Geneva concerning the concluding observations adopted by the Committee following the consideration of the eleventh and twelfth periodic reports submitted by the State party:*

> "The Government of the Republic of Korea, in respect of factual accuracy and hence in support of the credibility of the Committee on the Elimination of Racial Discrimination, requests the concluding observations of the Committee to reflect the following:
>
> "1. The deletion of the last three lines of paragraph 7:
>
> > 'The Committee also suggests that the State party take into account its general recommendation XXIX on descent-based discrimination when gathering information on the situation of the Paekjong community.'
>
> "2. A change in line six of paragraph 7 to read: 'Korean society' instead of 'South Korean society'."

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* See paragraphs 487-502 of the present report. The comments refer to the unedited version of the concluding observations.

Decision 2 (63) on Israel*

The following letter was addressed to the Chairman of the Committee on 14 August 2003 by the Permanent Representative of Israel to the United Nations Office at Geneva:

"Dear Sir,

"I am writing to you with reference to your letter of 11 August 2003 addressed to Mr. T. Israeli, informing us of the decision taken by the Committee on the Elimination of Racial Discrimination to hold an urgent discussion under its early warning and urgent procedures, regarding Israel's recent amendment to the Citizenship and Entry into Israel Law (Temporary Provision) of 31 July 2003.

"Israel is surprised and shocked by such a decision and views the Committee's initiative as being highly politicized, demonstrating a biased approach which singles out Israel. This is particularly troubling given the fact that Israel, by its own initiative, with a view to engaging in a constructive dialogue with the Committee, similar to that conducted with several other treaty bodies in the past two years, has approached the Committee in order to coordinate an agreed date for the submission and consideration of its periodic reports due.

"In fact, only three weeks ago, on 24-25 July, a professional delegation consisting of eight Israeli experts, headed by the Permanent Representative had responded in great detail to another treaty body, the Human Rights Committee, presenting substantive and detailed reasoning, inter alia, for the above temporary legislation, which attests to the legislation's compliance with existing international law and practice. Israel has also provided statistics relating to numerous concrete instances where the granting of a legal status to Palestinian spouses of Israeli residents has, in fact, been abused by Palestinian residents of the territories for suicide terrorism.

"Furthermore, this matter is currently still being reviewed and scrutinized by Israel's highest judicial instance, the Supreme Court sitting as High Court of Justice, and the domestic internal proceedings have not yet been exhausted.

"Following an informal meeting with the Secretary of the CERD Committee on 28 July 2003, Israel informed the Chairperson of the Committee, in a letter dated 4 August 2003, that it is in the final stages of preparation of its periodic report, and of its intention to submit no later than December this year a comprehensive and combined periodic report, in addition to its willingness to engage in a constructive dialogue with the Committee as soon as possible afterwards.

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* See paragraph 18 of the present report, subparagraph B, decisions adopted by the Committee at its sixty-third session.

"In light of the above, the Committee's decision to pre-empt and undermine the normal process of reporting, cannot be seen other than being extremely politicized and counterproductive, casting serious doubts on the Committee's bona fides in its entire treatment of Israel. This approach is even more striking in view of existing similar laws and practices in several other States parties to the [Convention], with regard to which the Committee has not chosen to invoke any similar mode of action.

"Yours sincerely,

"[*Signed*]: Yaakov Levy
"Ambassador"

The following reply was sent by the Chairman of the Committee on 18 August 2003 to the Permanent Representative of Israel to the United Nations Office at Geneva:

"Sir,

"With reference to your letter of 14 August 2003, I have the honour to transmit to you herewith decision 2 (63) adopted by the Committee on the Elimination of Racial Discrimination at its 1599th meeting, on 14 August 2003.

"As you are aware, this decision was adopted by the Committee, by consensus, in the exercise of its responsibilities under its urgent action procedure. In this connection, I wish to emphasize that, by adopting the above-mentioned decision, the Committee in no way intended 'to pre-empt and undermine' the normal process of reporting as alleged in your letter. The Committee remains committed to its task of monitoring the implementation of its constituent instrument, the International Convention on the Elimination of All Forms of Racial Discrimination. The Committee strongly rejects any allegation that, in doing so, it did not act with full independence and impartiality in accordance with its mandate.

"Accept, Sir, the assurances of my highest consideration.

"Sincerely,

"[*Signed*]: Ion Diaconu
"Chairman, Committee
on the Elimination of Racial
Discrimination"

The fourth and fifth periodic report of Latvia*

The following comments were sent on 30 September 2003 by the Permanent Representative of Latvia to the United Nations Office at Geneva concerning the concluding observations adopted by the Committee following the consideration of the fourth and fifth periodic reports submitted by the State party:

> "The Government of Latvia appreciates the constructive dialogue with the Committee which allowed the Government to present its views and exchange opinions with the experts on various issues. At the same time, the Government regrets that the positive spirit and tone of the discussion has not been fully reflected in the concluding observations, and that some issues that were touched upon in the concluding observations were not discussed during the consideration of the Government's report.
>
> "With regard to paragraph 7 of the concluding observations, the Government would like to point out that there has been a mistake of fact. The ruling that the Committee refers to was made by the Constitutional Court of Latvia (*Satversmes Tiesd*).
>
> "As to paragraph 9 of the concluding observations, the Government notes that, as stated during the examination of the report, the aim of the legislature when adopting the State Language Law was to establish a strict framework for the use of the Latvian language in the public sphere, as well as in the private sphere, when the public interest so requires. An important principle behind the Law, the formulation of which was recognized by international organizations as being in compliance with Latvia's international obligations, is to prevent unjustified interference with the right of every individual or group of individuals to use the language of their choice. In this light, the Committee's concern with the possible narrow interpretation of the Language Law seems irrelevant, as, in the given case, only a narrow interpretation can ensure broad recognition of the individual's right.
>
> "The Government notes that the Committee's recommendations contained in paragraphs 12 and 13 of the concluding observations are conflicting. The Government would like to draw the Committee's attention to the number of studies already conducted that showed that the reasons for the relatively low level of naturalization is the lack of motivation based on the insubstantial differences in rights between citizens and non-citizens. However, as the Latvian delegation stated during the consideration of its periodic report, the Government's policy is to encourage naturalization by all available means in order to ensure that the overwhelming number of Latvia's residents are citizens. The Government is also surprised at the 'growing number of persons who fail the language examination' as there are no statistical data available to support this statement. It would therefore appreciate clarification on this matter.
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> "With respect to paragraph 15 of the concluding observations, the Government notes that international human rights standards allow States to limit the right to work in

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* See paragraphs 437-462 of the present report. The comments refer to the unedited version of the concluding observations.

certain professions, in the public as well as in the private sector, only to its nationals. Such restrictions are not discriminatory since they have the legitimate aim of protecting national security, public order and the rights of others. The restrictions on working in certain professions that exist in Latvia concern jobs in both the public and the private sector related to the judicial branch (e.g., sworn attorneys, notaries) and State security considerations (e.g. manager of a security company) and are therefore seen to be in compliance with the above-mentioned principle. The Government would therefore appreciate the Committee's clarification on this matter.

"The Government is surprised to learn the Committee's concerns over educational reform and its implications on the rights of linguistic minorities, since there are no linguistic minorities, in the traditional sense of the term, in Latvia. At the same time, the Government notes that the reform is being implemented gradually and with great caution, and it ensures the right of national minorities to have their own education programme should they wish to do so.

"Finally, the Government has the pleasure to inform the Committee that it has decided to establish a working group, chaired by the Secretariat of the Minister for Special Assignments for Societal Integration Affairs, with the mandate to evaluate whether any, and which, adjustments to the legislation and State policy are necessary in combating racial discrimination in the light of the Committee's concluding observations."

Decision 1 (63) on the Lao People's Democratic Republic*

The letter reproduced below, dated 18 September 2003, was addressed to the Committee by the Minister of Foreign Affairs of the Lao People's Democratic Republic and concerns the Committee's decision adopted on 21 August 2003 on the situation in the Lao People's Democratic Republic:

> "The Lao People's Democratic Republic is a small, underdeveloped landlocked country which in earlier times was a victim of colonialism and neo-colonialism. Consequently, since recovering its independence, it has resolutely pursued a policy of cooperation with the international community in order to lead the country towards development and prosperity and, as a Member of the United Nations, it has taken it upon itself to accede to a number of international conventions.
>
> "In the sphere of the protection and promotion of human rights, the Lao People's Democratic Republic is signatory to a variety of important conventions, including:
>
> 1. Convention on the Prevention and Punishment of the Crime of Genocide (8 December 1950);
> 2. Convention on the Political Rights of Women (23 January 1969);
> 3. Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (9 September 1957);
> 4. International Convention on the Elimination of All Forms of Racial Discrimination (22 February 1974);
> 5. Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (14 April 1978);
> 6. International Convention on the Suppression and Punishment of the Crime of Apartheid (5 October 1981);
> 7. Convention on the Elimination of All Forms of Discrimination against Women (14 August 1981);
> 8. Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity (28 December 1984);
> 9. Convention on the Rights of the Child (8 May 1991).
>
> "Further, on 7 December 2000 it signed the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, which are currently in the process of ratification.

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* See paragraph 18, section B, of this report, Decisions adopted by the Committee at its sixty-third session.

"As a party to the International Convention on the Elimination of All Forms of Racial Discrimination, the Lao People's Democratic Republic has made every endeavour to comply with its obligations under the Convention so as to support the international community's efforts to combat racial discrimination by incorporating a number of principles and standards of international law into its domestic legislation. Despite difficulties in terms both of finance and of human resources, the Lao People's Democratic Republic has striven, to the extent possible, to submit reports in response to the questions raised by the bodies and committees with responsibility for the implementation of the conventions to which it is a signatory, including its report under the Convention on the Rights of the Child and its report under the Convention on the Elimination of All Forms of Discrimination against Women.

"As regards the reports concerning the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, the Lao People's Democratic Republic has to date submitted only the first five periodic reports because it had a number of reports to prepare and limited resources, inter alia, financial, technical and human resources. The staff available, moreover, have for the most part to devote themselves to tasks relating to resolution of the country's economic difficulties, living conditions and poverty reduction. During the period in question, therefore, the Lao People's Democratic Republic has been unable to submit all the periodic reports it should to the Committee on the Elimination of Racial Discrimination, in which connection it asks the Committee to show understanding for its difficulties. It will, however, make every effort to submit its reports for 2004, since it has received technical assistance for preparing them from the International Legislation Project financed by UNDP and the Government of Finland. One of the Project's principal aims is to assist the Lao People's Democratic Republic in establishing a mechanism responsible for preparing reports under this Convention.

"The Lao People's Democratic Republic has informed the Committee on each occasion that it has received communications from it concerning the submission of reports, in particular in 2001, 2002 and even 2003. It is to be regretted that the Committee has overlooked these constructive efforts on the part of the Lao People's Democratic Republic, and it is even surprising that the Rapporteur of the Committee should have said that the Lao People's Democratic Republic has not cooperated with the Committee nor provided answers to its questions. The UNDP Office in the Lao People's Democratic Republic is well aware of the country's difficulties and is, in the context of the activities under the above-mentioned Project, in the process of finding an expert to assist in drafting the report.

"As regards the problem of the Hmongs referred to in the Committee's Decision, the Lao People's Democratic Republic wishes to stress that this does not reflect the true situation, and would like to provide the Committee with the following information.

"Because of the difficulties of census-taking occasioned by the side-effects of a very long war, the extreme remoteness of villages and the many ways in which the country is underdeveloped, unofficial estimates in the past put the number of ethnic groups at 47 or 68. The ethnic groups in Laos are characterized by the fact that there has never been animosity, hostility or conflict between them. They mingled throughout the country from north to south when they settled and they stand by each other. The

Hmongs are one of the components of these groups and represent 6.9 per cent of the Lao population. Under the old regime, they, like the other ethnic minorities, suffered discrimination, oppression and contempt; they had no say in government and no access to education and the improvement of their physical and social living conditions was ignored. No longer able to endure the oppression and exploitation visited on them by feudal lords and alien aggressors, the Lao ethnic groups then began to fight side by side for national independence.

"Since 1975, the Hmongs, like the other Lao ethnic groups, have enjoyed independence and freedom and have become the true rulers of the country. Administrative authority is in the hands of the multi-ethnic people; all ethnic groups are equal before the law. Under article 8 of the Constitution of the Lao People's Democratic Republic, 'The State shall pursue a policy of solidarity and equality between the country's ethnic groups. All ethnic groups have the right to preserve and develop their fine traditions and those of the nation. All acts of division or discrimination between ethnic groups are prohibited. The State shall implement all necessary measures to develop and raise the economic and social standard of all ethnic groups.'

"Furthermore, the policy in respect of ethnic groups was set out in 1981 in the relevant resolution of the Political Bureau of the Party and in respect more particularly of the Hmongs in the Party's Central Committee's 1992 resolution on ethnic activities.

"As a result of the fair and equitable policy towards them, the lives of all the country's ethnic groups have gradually improved, both materially and morally, and they have the possibility of participating in the government of the country. The Hmongs in particular have participated in this progress and in the overall transformation of the Lao nation. They are present at all levels of government: 9.4 per cent of the members of the Central Committee of the Party, nearly 5 per cent of members of the Government, 9 per cent of members of Parliament, 16 per cent of governors of provinces and 13 per cent of the members of the Lao Front for National Reconstruction are Hmongs. Some hold high office: Chairman of the General Inspection Committee of the Party and the State, Vice-President of the National Assembly, Minister to the Prime Minister's Office, Secretaries of State or the equivalent, governors of provinces, district chiefs, officers in the higher echelons of the army and police, directors of national educational establishments and hospitals, and diplomats.

"In addition, 20 per cent of the combatants recognized as national heroes in the struggle against the imperialist aggressors were Hmongs. Most of them demonstrated their heroism against the special forces of Vang Pao during the war of national liberation.

"Today, the Hmongs have an important role in the country's social and economic development. As a result of the successful implementation by the Lao Government of a fair and equitable policy in building up solidarity among ethnic groups in order to ensure the cohesiveness of the multi-ethnic Lao people, the Hmongs and other ethnic groups are able to lead a life of peace and quiet. Their lives and their situation are similar to those of other groups; there are rich and poor among them. The problem occupying the Lao Government's attention at the present time is to improve living conditions both among the Hmongs and among the other ethnic groups in the country and to help them emerge from the poverty resulting from the war.

"The Lao Government also attaches great importance to opium poppy eradication and to the clearing of the unexploded ordnance (UXO Lao) which still affects the lives of the multi-ethnic Lao people. In implementing this policy, the Government has benefited from fruitful cooperation with friendly countries, international organizations and non-governmental organizations which understand the true situation of the Lao People's Democratic Republic and which see that the Government's policy towards ethnic groups is fair and equitable.

"The foregoing suffices to illustrate the fairness of the Lao People's Democratic Republic. Since, however, it is one of the least developed countries and is landlocked, its people's standard of living is still low. Nevertheless, in its policy the Lao People's Democratic Republic makes no distinction between its various ethnic groups; all those born in the country - except for aliens - are considered without discrimination as Lao citizens.

"Recently, there have been armed attacks followed by murders on passenger-carrying vehicles. These were acts of banditry, a social phenomenon found in a number of countries. The gangs of bandits included both Hmongs and persons from other ethnic groups; they acted indiscriminately, their only concern being to procure money and valuables. Their victims also included Hmongs. Not content just to rob, these individuals also killed innocent persons and burned vehicles. Their acts bore the stamp of cruelty, brutality and inhumanity. The Lao Government has employed against them the measures provided for by law. When they are arrested, they are tried and sent to prison, where they undergo rehabilitation; a number of them have been pardoned. Several of these persons have been reintegrated into the national community in recent years and have become good citizens, benefiting from the Lao Government's policy of helping them in their reintegration. The Lao Government has resorted to drastic measures to put an end to the illegal acts of the refractory elements and protect the lives and property of innocent persons.

"The recent arrest of a number of aliens and Hmongs is a perfectly legal measure against lawbreakers. On 30 June 2003, the people's court of Xieng Khouang province tried the case of a Belgian, a Frenchman and an American of Lao origin and sentenced them to 15 years' imprisonment for obstruction of the police in the performance of their duties and for illegal possession of explosives. The Lao authorities concerned were unaware that these persons were journalists and a minister of religion, since in order to enter the Lao People's Democratic Republic two of them had requested tourist visas and the third a visa to visit relatives. In view of their misconduct, they deserved to be punished in accordance with the law of the Lao People's Democratic Republic. For humanitarian reasons, however, and in view of the good relations between the Lao People's Democratic Republic and the countries of which the three law-breakers are nationals, the Lao Government sent them back to their home countries.

"The slander with which certain groups of persons of Lao origin living abroad continue to put about concerning the Lao People's Democratic Republic and the distorted information sent to the Committee by certain non-governmental organizations are merely divisive manoeuvres intended to serve those entities' political interests.

"The Government of the Lao People's Democratic Republic therefore hopes that the members of the Committee on the Elimination of Racial Discrimination and the other relevant United Nations bodies will understand that this is the real situation. It is willing to cooperate at any time with the Office of the High Commissioner by providing additional information, and assures the Office that it will do everything it can to submit its report in the first quarter of 2004."

Annex VIII

LIST OF DOCUMENTS ISSUED FOR THE SIXTY-SECOND AND SIXTY THIRD SESSIONS OF THE COMMITTEE*

CERD/C/434 and CERD/C/434/Add.1	Provisional agenda and annotations of the sixty-second session of the Committee
CERD/C/435	Submission of reports by States parties under article 9, paragraph 1, of the Convention for the sixty-second session of the Committee
CERD/C/436	Consideration of copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories and to all other Territories to which General Assembly resolution 1514 (XV) applies, in conformity with article 15 of the Convention
CERD/C/454	Provisional agenda and annotations of the sixty-third session of the Committee
CERD/C/455	Submission of reports by States parties under article 9, paragraph 1, of the Convention for the sixty-third session of the Committee
CERD/C/SR.1553-1582	Summary records of the sixty-second session of the Committee
CERD/C/SR.1583-1612	Summary records of the sixty-third session of the Committee
CERD/C/62/CO/1	Concluding observations of the Committee on the Elimination of Racial Discrimination - Côte d'Ivoire
CERD/C/62/CO/2	Concluding observations of the Committee on the Elimination of Racial Discrimination - Ecuador
CERD/C/62/CO/3	Concluding observations of the Committee on the Elimination of Racial Discrimination - Fiji
CERD/C/62/CO/4	Concluding observations of the Committee on the Elimination of Racial Discrimination - Ghana

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* This list only concerns documents issued for general distribution.

CERD/C/62/CO/5	Concluding observations of the Committee on the Elimination of Racial Discrimination - Morocco
CERD/C/62/CO/6	Concluding observations of the Committee on the Elimination of Racial Discrimination - Poland
CERD/C/62/CO/7	Concluding observations of the Committee on the Elimination of Racial Discrimination - Russian Federation
CERD/C/62/CO/8	Concluding observations of the Committee on the Elimination of Racial Discrimination - Saudi Arabia
CERD/C/62/CO/9	Concluding observations of the Committee on the Elimination of Racial Discrimination - Slovenia
CERD/C/62/CO/10	Concluding observations of the Committee on the Elimination of Racial Discrimination - Tunisia
CERD/C/62/CO/11	Concluding observations of the Committee on the Elimination of Racial Discrimination - Uganda
CERD/C/62/CO/12	Concluding observations of the Committee on the Elimination of Racial Discrimination - Papua New Guinea
CERD/C/63/CO/1	Concluding observations of the Committee on the Elimination of Racial Discrimination - Albania
CERD/C/63/CO/2	Concluding observations of the Committee on the Elimination of Racial Discrimination - Bolivia
CERD/C/63/CO/3	Concluding observations of the Committee on the Elimination of Racial Discrimination - Cape Verde
CERD/C/63/CO/4	Concluding observations of the Committee on the Elimination of Racial Discrimination - Czech Republic
CERD/C/63/CO/5	Concluding observations of the Committee on the Elimination of Racial Discrimination - Finland
CERD/C/63/CO/6	Concluding observations of the Committee on the Elimination of Racial Discrimination - Islamic Republic of Iran
CERD/C/63/CO/7	Concluding observations of the Committee on the Elimination of Racial Discrimination - Republic of Korea
CERD/C/63/CO/8	Concluding observations of the Committee on the Elimination of Racial Discrimination - Latvia

CERD/C/63/CO/9	Concluding observations of the Committee on the Elimination of Racial Discrimination - Norway
CERD/C/63/CO/10	Concluding observations of the Committee on the Elimination of Racial Discrimination - Saint Vincent and the Grenadines
CERD/C/63/CO/11	Concluding observations of the Committee on the Elimination of Racial Discrimination - United Kingdom of Great Britain and Northern Ireland
CERD/C/63/CO/12	Concluding observations of the Committee on the Elimination of Racial Discrimination - Malawi
CERD/C/397/Add.1	Initial to fourth periodic reports of Albania
CERD/C/409/Add.3	Fourteenth to sixteenth periodic reports of Bolivia
CERD/C/426/Add.1	Third to twelfth periodic reports of Cape Verde
CERD/C/382/Add.2	Fifth to sixteenth periodic reports of Côte d'Ivoire
CERD/C/419/Add.1	Fifth periodic report of the Czech Republic
CERD/C/384/Add.8	Thirteenth to sixteenth periodic reports of Ecuador
CERD/C/429/Add.1	Sixth to fifteenth periodic reports of Fiji
CERD/C/409/Add.2	Sixteenth periodic report of Finland
CERD/C/431/Add.3	Sixteenth and seventeenth periodic reports of Ghana
CERD/C/431/Add.6	Sixteenth and seventeenth periodic reports of the Islamic Republic of Iran
CERD/C/426/Add.2	Eleventh and twelfth periodic reports of the Republic of Korea
CERD/C/39[illegible]/Add.2	Fourth and fifth periodic reports of Latvia
CERD/C/430/Add.1	Fourteenth to sixteenth periodic reports of Morocco
CERD/C/430/Add.2	Sixteenth periodic report of Norway
CERD/C/384/Add.6	Fifteenth and sixteenth periodic reports of Poland
CERD/C/431/Add.2	Fifteenth to seventeenth periodic reports of the Russian Federation

CERD/C/378/Add.1	Second to tenth periodic reports of Saint Vincent and the Grenadines
CERD/C/370/Add.1	Initial and second periodic reports of Saudi Arabia
CERD/C/439/Add.1	Third periodic report of Saudi Arabia
CERD/C/398/Add.1	Fifth periodic report of Slovenia
CERD/C/431/Add.4	Thirteenth to seventeenth periodic reports of Tunisia
CERD/C/358/Add.1	Second to tenth periodic reports of Uganda
CERD/C/430/Add.3	Sixteenth and seventeenth periodic reports of the United Kingdom of Great Britain and Northern Ireland

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